

**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-0731
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	}	Decision No. GUAM-3034
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	}	
Under the Guam World War II Loyalty Recognition	}	
Act, Title XVII, Public Law 114-328	}	
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FINAL DECISION

Claimant objects to the Commission’s Proposed Decision denying his claim under the Guam World War II Loyalty Recognition Act for various personal injuries suffered as a result of the occupation of Guam by Imperial Japanese military forces during World War II.¹ In the Proposed Decision, the Commission concluded that Claimant did not submit evidence sufficient to establish that he suffered a compensable injury under the Act. On objection, Claimant requests that the Commission consider previously undisclosed personal injuries, including an anxiety disorder and a heart condition. After carefully considering all of Claimant’s arguments and evidence, we conclude that Claimant has not established that he suffered these injuries as a result of the attack, occupation, or liberation of Guam as required under the Act. We thus affirm the denial of this claim.

BACKGROUND

Claimant brought this claim under the Guam World War II Loyalty Recognition Act, seeking compensation for personal injury. Claimant alleged that he was born in October 1944, several weeks

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

after Guam was liberated by U.S. soldiers, and suffered several personal injuries: starvation due to economic depression; sickness “presumably due to fallout from war hardware and . . . hazardous chemical materials”; substandard living conditions; and denial of a quality education.

On September 17, 2020, the Commission issued a proposed decision (“Proposed Decision”) denying the claim because Claimant did not establish that he suffered a compensable injury and, thus, is not a “compensable Guam victim” within the meaning of the Act.² Specifically, the Proposed Decision held that Claimant is not eligible for compensation for forced march, internment, or hiding to evade internment as a result of the attack and occupation of Guam because he was born after July 31, 1944, at which time U.S. forces liberated thousands of Guamanians who had been forced to march to various camps by Imperial Japanese forces and subsequently interned.³ The Proposed Decision further noted that Claimant’s allegations were insufficient to establish that Claimant suffered any other injury compensable under Section 1704.⁴

On October 4, 2020, Claimant filed a notice of objection, requesting that the Commission consider previously undisclosed injuries, including an anxiety disorder and cardiac illness, as the basis of his claim for compensation. Because he did not request an oral hearing, the Commission advised him by letter dated January 6, 2021, that his claim would be decided on the written record and requested that he submit any additional evidence in support of his objection no later than March 8, 2021. Pursuant to this letter, Claimant submitted a statement, dated January 25, 2021, and medical records describing treatment that he received for an anxiety disorder in 1994 and 1995 and for cardiac illness in 2018.

² See Claim No. GUAM-0731, Decision No. GUAM-3034 (Proposed Decision), at 2.

³ *Id.*

⁴ *Id.*

DISCUSSION

To establish a compensable personal injury under the Act, a claimant must show that “as a result of the attack and occupation of Guam by Imperial Japanese military forces, or incident to the liberation of Guam by United States military forces,” he or she suffered a “discernible injury (such as disfigurement, scarring, or burns) that is more serious than a superficial injury.”⁵ On objection, Claimant, who was born several weeks after U.S. forces liberated Guam, maintains that he suffered personal injuries as a result of his mother’s wartime experience. In his notice of objection, Claimant asserts that his mother developed anxiety during the war and experienced anxiety attacks while pregnant with him, which “translated to [him] . . . developing heart murmur disease and anxiety disorder disease.”

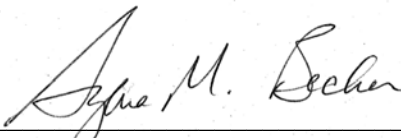
Claimant makes similar claims in his January 25, 2021 statement. He alleges that his mother suffered from “obsessive worrying, anxiety attacks, restlessness, nervousness, trouble staying asleep, headaches, heart condition, nausea, [and] trembling,” and that her wartime “ailments . . . [were] obviously transmitted to him.” Claimant states that “early in [his] formative and developmental years and throughout [his] adulthood,” he “felt” the effects of his mother’s wartime experience. He claims that, “inexplicably, [he] struggled making it through the day and . . . constantly worr[ied] about the most inconsequential things in life.” He further claims that his poor health was aggravated by post-war conditions on Guam, where he lived with several relatives in a two-bedroom cottage without electricity or running water. In 1994, approximately five decades after the United States liberated Guam, Claimant’s health deteriorated and he sought treatment for “severe depression, anxiety disorder, incessant worries, and constant[] . . . panic attack[s].” In 2018, Claimant was diagnosed with severe aortic stenosis and underwent heart surgery.

⁵ Claim No. GUAM-0573, Decision No. GUAM-0604, at 9-10.


Claimant's evidence on objection is not sufficient to establish that he suffered a personal injury "as a result of the attack and occupation of Guam by Imperial Japanese military forces, or incident to the liberation of Guam by United States military forces," as required under the Act.⁶ The medical records Claimant has submitted do not address the etiologies of his injuries, much less support his claim that they developed congenitally during the war. In addition, public records give no indication that claims for analogous injuries were compensable under the Guam Meritorious Claims Act of 1945, which similarly limited compensable injuries to those that were "the result of or incident to hostilities or hostile occupation, or . . . caused by or incident to noncombat activities of the United States" armed forces.⁷ Thus, because Claimant has failed to establish a sufficient causal link between his injuries and the attack and occupation of Guam by Imperial Japanese forces or its liberation by United States military forces, we conclude that he did not suffer a compensable personal injury under the Act.

Therefore, 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 In reaching this conclusion, we need not, and do not, decide whether any injury allegedly sustained by Claimant satisfies the physical injury standard described above, *i.e.* a "discernible injury (such as disfigurement, scarring, or burns) that is more serious than a superficial injury."

⁷ 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). *See* Claim No. GUAM-0573, Decision No. GUAM-0604, at 7-8 (detailing personal injury claims that were found to be compensable under the 1945 Act).

In the Matter of the Claim of	}	
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Claimant brings this claim under Sections 1704 and 1705 of the Guam World War II Loyalty Recognition Act for injuries allegedly suffered as a result of the occupation of Guam by Imperial Japanese military forces during World War II.¹ To be eligible for a payment as a “compensable Guam victim” under Section 1704, a claimant must show that he or she suffered one or more of the following injuries: rape, severe personal injury, personal injury, forced labor, forced march, internment, and hiding to evade internment. Claimant was born after July 31, 1944, when U.S. forces liberated thousands of Guam residents who had been subjected to forced marches and internment by the Imperial Japanese forces. Because Claimant is not eligible for compensation for those injuries, and has failed to submit evidence sufficient to establish any other compensable injury, this claim is denied.

GUAM-0731

The Commission's authority "to determine the eligibility of individuals for payments" under the Act is set forth under Section 1704.² 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 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.³

The Commission finds, based on evidence submitted by Claimant and/or publicly available records, that Claimant is not a "compensable Guam victim" within the meaning of the Act. Claimant was born after July 31, 1944, at which time U.S. forces liberated thousands of Guamanians who had been forced to march to various camps by Imperial Japanese forces and subsequently interned.⁴ Claimant is thus not eligible for compensation for forced march, internment, or hiding to evade internment as a result of the attack and occupation of Guam by Imperial Japanese military forces during World War II. Claimant's allegations are also insufficient to establish that Claimant suffered any other injury compensable under Section 1704.⁵

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(c)(2)(A)-(C).

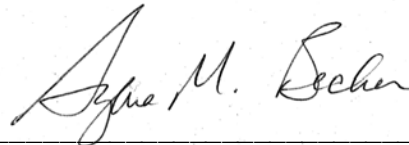
⁴ *See* Claim No. GUAM-0232, Decision No. GUAM-0001, at 11 (finding that "on July 31, 1944, U.S. soldiers liberated the main camps in the Manenggon valley and released thousands of Guamanians, who were then relocated to refugee camps in Finile and Asan in early August 1944.").

⁵ For example, Claimant's statements do not establish the elements required for either a "personal injury," defined as a "discernible injury (such as disfigurement, scarring, or burns) that is more serious than a superficial injury," or a "severe personal injury," defined as "loss of a limb, dismemberment, paralysis, or any injury of a similar type or that is comparable in severity." 45 C.F.R. § 510.1 (2019). Claimant's statements also fail to establish that Claimant was compelled to perform labor in support of the Japanese military government by the "use or threatened use of physical force" and/or that Claimant was old enough to be reasonably subjected to forced labor given Claimant's age at the time the labor was allegedly performed. Claim No. GUAM-0573, Decision No. GUAM-604, at 10.

Accordingly, the Commission is constrained to conclude 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, September 17, 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).