

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

In the Matter of the Claim of	}	
	}	
	}	
(b) (6)	}	Claim No. GUAM-1549
1	}	
	}	Decision No. GUAM-2577
	}	
Under the Guam World War II Loyalty Recognition	}	
Act, Title XVII, Public Law 114-328	}	

FINAL DECISION

Claimant Estate of Maria B. Duenas (“Claimant Estate) objects to the Commission’s Proposed Decision denying its claim under the Guam World War II Loyalty Recognition Act<sup>2</sup> for injuries allegedly suffered by Esteban Duenas (the “decedent”) as a result of the occupation of Guam by Imperial Japanese military forces during World War II. The Proposed Decision denied the claim on the ground that the decedent was not living on the date of the Act’s enactment (December 23, 2016), as required to be eligible for a payment under the Act. On objection, Claimant Estate asserts that Maria Duenas, the decedent’s widow and original named Claimant, was the beneficiary of the decedent’s claim, because *she* was living on the date of the Act’s enactment, and therefore should have been eligible to receive an award. After carefully considering Claimant Estate’s argument,

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<sup>1</sup> The Commission has received information indicating that the original claimant in this claim died after the effective date of the Act (December 23, 2016). Accordingly, the Commission has substituted the above-referenced individual and/or entity as the party claimant in this claim pursuant to Commission regulation. *See* 45 C.F.R. § 509.5(j)(1) (2019).  
<sup>2</sup> Pub. L. 114-328, tit. XVII, 130 Stat. 2642 (2016) (“GLRA” or “Act”).

however, we again deny the claim for the same reason stated in the Proposed Decision. We thus affirm the denial of this claim.

## BACKGROUND

Claimant Estate brought this claim alleging that, on or about December 8, 1941, the decedent went into hiding to evade internment as a result of the attack and occupation of Guam by Imperial Japanese military forces during World War II. It further alleged that the decedent had been a victim of forced march and that he was subjected to forced labor by the Imperial Japanese military forces. The decedent died in 2011 of causes unrelated to the occupation.

Maria Duenas, the original named Claimant, filed this claim on February 2, 2018, seeking compensation for the decedent's injuries as a "compensable Guam victim." Under Section 1704(c)(2) of the Act, a "compensable Guam victim" is defined as "an individual who is not deceased as of the date of the enactment of this Act and who is determined [by the Commission] 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 several named injuries, including, *inter alia*, forced march, forced labor, and hiding to evade internment.<sup>3</sup> Ms. Duenas died on April 27, 2019, during the pendency of the claim.

The Commission denied the claim in a Proposed Decision entered on May 28, 2020 ("Proposed Decision").<sup>4</sup> In its decision, the Commission noted that the decedent was not a "compensable Guam victim" within the meaning of the Act because the decedent was

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<sup>3</sup> *Id.* § 1704(c)(2).

<sup>4</sup> Claim No. GUAM-1549, Decision No. GUAM-2577 (2020) (Proposed Decision).

not alive on December 23, 2016.<sup>5</sup> For this reason, the Commission concluded that Claimant Estate was not eligible for compensation under the Act.

On June 16, 2020, Claimant Estate's representative submitted a letter to the Commission in which he disagreed with the Proposed Decision, explaining that an award for his father's injuries should have been made to his late mother, as the beneficiary of his father's claim. The representative did not, however, request an oral hearing with respect to the Proposed Decision, as permitted under Commission regulations.<sup>6</sup> The letter included a copy of Ms. Duenas's death certificate, verifying her death on April 27, 2019, and a copy of the Proposed Decision, but no other documentation. By letter dated January 6, 2021, the Commission staff advised Claimant Estate that, because it had not requested an oral hearing, the objection would be considered in proceedings based on the written record. The staff further indicated that any further evidence Claimant Estate wished to submit in support of the objection should be received no later than March 8, 2021. As of that date, no additional evidence had been received. Accordingly, in the absence of any oral argument or in-person presentation of evidence, or any further documentary information, the Commission will consider Claimant Estate's objection on the basis of the written record now before it.

#### DISCUSSION

As noted above, Claimant Estate has presented no new documentary evidence to support its claim, apart from Ms. Duenas's death certificate. Moreover, its Notice of

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<sup>5</sup> Although the Claimant did not file a claim as a survivor of a "compensable Guam decedent," the Commission also indicated that the decedent was not a "compensable Guam decedent" within the meaning of the Act because "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." *Id.* at 2.

<sup>6</sup> See 45 C.F.R. § 509.5(e) (2019).

Objection does not even make reference to the jurisdictional defect in the claim. Claimant Estate’s representative merely states his disagreement with the denial of the claim, which he argues “would have gone to [his] mother, Maria B. Duenas, as the beneficiary of [his] father’s claim,” and that Ms. Duenas “was still alive and living on Guam on **December 23, 2016**, the date of the Act’s enactment.” (bold in original)

As noted in the Proposed Decision, Section 1704(c) of the Act defines a “compensable Guam victim” as, in part, “an individual “who is not deceased as of the date of the enactment of this Act . . . .”<sup>7</sup> The decedent whose death forms the basis for this claim died in 2011, five years before the date of enactment of the Act. Although Claimant Estate maintains that Ms. Duenas was the “beneficiary of [the decedent’s claim],” under the express terms of the Act, the decedent whose injuries form the basis for a “compensable Guam victim” claim must have been alive on December 23, 2016. Whether beneficiaries to a decedent’s estate were living on that date is immaterial to this determination—the Act precludes estate beneficiaries from receiving an award on behalf of a decedent who died before that date, who is, by definition, not a “compensable Guam victim” under the Act. Claimant Estate has offered no evidence or argument that would alter this conclusion. The Commission therefore affirms its denial of this claim for the reasons described in the Proposed Decision.

#### CONCLUSION

In sum, for the reasons discussed above and in the Proposed Decision, and based on the evidence and information submitted in this claim, the Commission concludes that

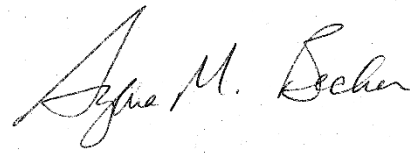
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<sup>7</sup> GLRA § 1704(c)(2).

the denial of this claim set forth in the Proposed Decision must be and is hereby affirmed.

This constitutes the Commission's final determination in this claim.

Dated at Washington, DC, May 21, 2021  
and entered as the Final Decision  
of the Commission.



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Sylvia M. Becker, Commissioner



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Patrick Hovakimian, Commissioner

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PROPOSED DECISION

Claimant brings this claim under the Guam World War II Loyalty Recognition Act for injuries allegedly suffered by Esteban Duenas (the “decedent”) as a result of the occupation of Guam by Imperial Japanese military forces during World War II.<sup>1</sup> 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.<sup>2</sup> 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.”<sup>3</sup> 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

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

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

<sup>3</sup> *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.<sup>4</sup> Under Sections 1704(c)(1) and 1704(b)(1)-(5), a qualifying survivor<sup>5</sup> 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.”<sup>6</sup>

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,<sup>7</sup> 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.<sup>8</sup>

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,”<sup>9</sup> it is constrained to conclude

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<sup>4</sup> *Id.* § 1704(c)(2).

<sup>5</sup> 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).

<sup>6</sup> *Id.* §§ 1704(b)(1)-(5); 1704(c)(1).

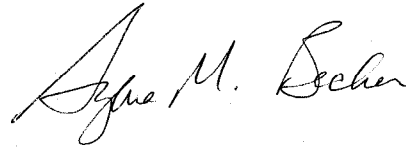
<sup>7</sup> Record evidence indicates that the decedent died in 2011.

<sup>8</sup> 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).

<sup>9</sup> 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, May 28, 2020  
and entered as the Proposed Decision  
of the Commission.



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Sylvia M. Becker, Commissioner



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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).