

**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)

Under the Guam World War II Loyalty Recognition
Act, Title XVII, Public Law 114-328

Claim No. GUAM-2844

Decision No. GUAM-2687

FINAL DECISION

Claimant objects to the Commission’s Proposed Decision denying his claim under the Guam World War II Loyalty Recognition Act¹ for injuries allegedly suffered by Matilde Jardel (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 grounds that the Claimant failed to establish that the decedent is a “compensable Guam decedent” or a “compensable Guam victim,” as required to be eligible for a payment under the Act. On objection, Claimant has still not provided evidence or argument showing that this claim satisfies either requirement. Therefore, we affirm the denial of this claim for the reasons set forth in the Proposed Decision.

BACKGROUND

Claimant brought this claim for hiding to evade internment, forced march, forced labor, and personal injury based on the decedent’s experience during the attack and occupation of Guam during World War II. The Commission denied the claim in a Proposed Decision entered on May

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

28, 2020 (“Proposed Decision”).² In its decision, the Commission concluded that the decedent was not a “compensable Guam decedent” within the meaning of the Act because Claimant’s allegations were not sufficient to establish that the decedent’s death in 2012 was 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 1945.³

The Commission also determined that the decedent was not a “compensable Guam victim” within the meaning of the Act because the decedent was not alive on December 23, 2016. Therefore, because the decedent was neither a “compensable Guam victim” nor a “compensable Guam decedent,” the Commission concluded that Claimant was not eligible for compensation under the Act.

On June 25, 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 he submit any additional evidence in support of the objection no later than March 8, 2021. Claimant did not make any submissions in response to this letter.

DISCUSSION

As noted in the Proposed Decision, Claimant must establish that he is a survivor of a “compensable Guam decedent” or that the decedent is a “compensable Guam victim” to be eligible for a payment under the Act. Section 1704(c)(1) of the Act defines a “compensable Guam decedent” in relevant part as 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”⁴ The evidence in the record on objection indicates

² Claim No. GUAM-2844, Decision No. GUAM-2687 (2020) (Proposed Decision).

³ *Id.* at 2.

⁴ GLRA § 1704(c)(1).

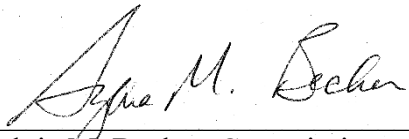
that the decedent died in 2012, almost 70 years after the liberation of Guam. Moreover, Claimant asserts that the decedent died of cardiovascular disease, and has never alleged that this condition was the result of the occupation or liberation of Guam. Because Claimant has not established that the decedent died as a result of the occupation or liberation of Guam, he is not a survivor of a “compensable Guam decedent” within the meaning of the Act.

Claimant has also failed to establish that he is eligible for a payment as a “compensable Guam victim” based on the decedent’s injuries. Section 1704(c) of the Act defines a “compensable Guam victim” in relevant part as an individual “who is not deceased as of the date of the enactment of this Act” and who suffered certain injuries as a result of the attack or occupation of Guam.⁵ Because the decedent died in 2012, four years before the date of enactment of the Act, she is not a “compensable Guam victim” and Claimant cannot establish that he is entitled to any payment on her behalf.


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 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, June 29, 2021
and entered as the Final Decision
of the Commission.



Sylvia M. Becker, Commissioner



Patrick Hovakimian, Commissioner

⁵ *Id.* § 1704(c)(2).

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PROPOSED DECISION

Claimant brings this claim under the Guam World War II Loyalty Recognition Act for injuries allegedly suffered by Matilde Jardel (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).

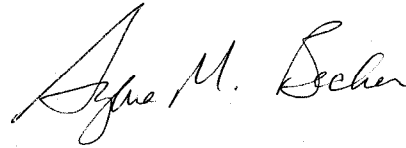
⁷ Record evidence indicates that the decedent died in 2012.

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, May 28, 2020
and entered as the Proposed Decision
of the Commission.

A handwritten signature in black ink, appearing to read "Sylvia M. Becker".

Sylvia M. Becker, Commissioner

A handwritten signature in blue ink, appearing to read "Patrick Hovakimian".

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).