

**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)	1 }	Claim No. GUAM-2893
(b) (6)	}	GUAM-2893A
(b) (6)	}	GUAM-2893B
	}	
	}	Decision No. GUAM-3559
	}	
Under the Guam World War II Loyalty Recognition	}	
Act, Title XVII, Public Law 114-328	}	

PROPOSED DECISION

Claimants bring this claim under the Guam World War II Loyalty Recognition Act for the death of Jose Cruz (the “decedent”) as a result of the occupation of Guam by Imperial Japanese military forces during World War II.² Sections 1704 and 1705 of the Act authorize the Commission to award compensation to survivors of a “compensable Guam decedent,” defined as “a resident of Guam who died 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, 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

¹ 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).

² Guam World War II Loyalty Recognition Act, Pub. L. 114-328, tit. XVII, 130 Stat. 2642 (2016) (“GLRA” or “Act”).

such Act.”³ To be eligible for an award as the survivor of a “compensable Guam decedent,” a claimant must establish that he or she is a spouse or child of the decedent who was living on the date of the Act’s enactment, December 23, 2016, or in the case of a decedent who had no spouse or child living on the date of enactment, a parent living as of that date.⁴

The Commission finds, based on the evidence of record, including affidavits included with Claimants’ claim forms and public records from the Social Security Administration and other sources, that the decedent is a “compensable Guam decedent” and that Claimants are children of the decedent who were living on December 23, 2016. Claimants’ sworn statements are consistent with the public record and evidence in other claims filed in this claims program, which show that many Guamanians were killed as a result of the invasion, occupation, and liberation of Guam during World War II.⁵ Section 1705(b)(9) of 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.”⁶ In the absence of rebutting evidence, Claimants’ sworn statements averring the circumstances of the decedent’s death and Claimants’ relation to the decedent are sufficient, under the statutorily promulgated standards, to establish Claimants’ eligibility for compensation.⁷

Section 1704(a)(2) of the Act provides for a single \$25,000 payment for distribution to the survivors of a “compensable Guam decedent” according to the order of priority set forth in

³ *Id.* § 1704(c)(1).

⁴ *See id.* § 1704(b)(1)-(5).

⁵ *See* Claim No. GUAM-3258, Claim No. GUAM-3796, Decision No. GUAM-3347, at 4-5.

⁶ Guam World War II Loyalty Recognition Act § 1705(b)(9).

⁷ *See* Claim No. GUAM-3258, Claim No. GUAM-3796, Decision No. GUAM-3347, at 7-10.

Section 1704(b).⁸ Because the decedent did not have a surviving spouse as of the date of enactment, Section 1704(b)(3) directs the Commission to make the payment “to [the decedent’s] children, to be divided among such children to the greatest extent possible into equal shares.”⁹ Thus, as the only surviving children of the decedent eligible for payment, each Claimant is entitled to one-third of the \$25,000 payment, which amounts to an award of \$8,333.33 for each.

Pursuant to the GLRA, the Commission is required to deduct, from a payment made to a compensable Guam survivor, amounts paid to such survivor under the Guam Meritorious Claims Act of 1945, Public Law 79-224, before the date of the enactment of the GLRA. The Commission finds, based on congressional records and public records from the Department of the Navy and other government agencies, that the United States Government provided Claimant DAVID PORTUSACH CRUZ with compensation under the 1945 Act in the amount of \$33.00 and Claimant MARTHA BENITO STERTON with compensation in the amount of \$33.00. Therefore, a deduction in payment will be made from their awards in those amounts.

With regard to Claimant ESTATE OF RICARDO PORTUSACH BENITO, the evidence in the record establishes either that the United States government did not provide him with compensation under the 1945 Act, or that the payments that he received have already been deducted from awards that the Commission has issued in his claims as “compensable Guam victim[s].” Therefore, no deduction in payment will be made from his award.

In summary, Claimant ESTATE OF RICARDO PORTUSACH BENITO is entitled to an award of \$8,333.33, Claimant DAVID PORTUSACH CRUZ is entitled to an award of \$8,300.33, and Claimant MARTHA BENITO STERTON is entitled to an award of \$8,300.33.

⁸ See Guam World War II Loyalty Recognition Act § 1704(b)(1)-(4).

⁹ *Id.* § 1704(b)(3).

These amounts constitute the entirety of the compensation to which Claimants are entitled under the GLRA. The Commission hereby enters the following award, which will be certified to the Secretary of the Treasury for payment under Section 1705 of the GLRA.

AWARD

Claimant ESTATE OF RICARDO PORTUSACH BENITO is entitled to an award in the amount of \$8,333.33.

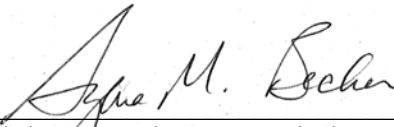
Claimant DAVID PORTUSACH CRUZ is entitled to an award in the amount of \$8,300.33.


Claimant MARTHA BENITO STERTON is entitled to an award in the amount of \$8,300.33.

Dated at Washington, DC, August 17, 2021
and entered as the Proposed Decision
of the Commission.

**This decision was entered as the
Commission's Final Decision on**

February 18, 2022


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 (2020).