

**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-3258
(b) (6)	}	Claim No. GUAM-3796
	}	
	}	Decision No. GUAM-3347
	}	
Under the Guam World War II Loyalty Recognition	}	
Act, Title XVII, Public Law 114-328	}	
	}	

PROPOSED DECISION

Claimants brings this claim under Sections 1704 and 1705 of the Guam World War II Loyalty Recognition Act¹ seeking compensation for the death of their mother, Hannah Chance Torres (the “decendent”) as a result of the attack and occupation of Guam by Imperial Japanese military forces during World War II. Because Claimants have established that the decedent was beaten to death by a Japanese soldier during a forced march in 1944, and meet all other requirements regarding payments for death under the Act, they are each entitled to an award of \$12,500.

BACKGROUND AND BASIS OF THE PRESENT CLAIM

Claimants allege that the decedent was a resident of Guam on December 8, 1941, when the Imperial Japanese army attacked and occupied the island. They further assert

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

that the decedent died from internal bleeding on July 15, 1944, hours after a Japanese soldier beat her with a bayonet on a forced march to an internment camp at Manenggon.

Claimants were among several Guam residents who received payments from land and claims commissions established under the Guam Meritorious Claims Act (“GMCA”),² which was enacted on November 15, 1945, and provided compensation to residents of Guam for personal injury, death, and property loss sustained in Guam as a result of or incident to hostilities or hostile occupation, and/or the noncombat activities of the U.S. armed forces. The implementation and administration of the GMCA was the subject of a review conducted by the Guam War Claims Review Commission (“GWCRC”), which Congress established in 2002 to assess the “effectiveness of [the GMCA] in addressing the war claims of American nationals residing on Guam between December 8, 1941, and July 21, 1944” and “[advise] on any additional compensation . . . necessary to compensate the people of Guam for death, personal injury, forced labor, forced march, and internment.”³ In June 2004, the GWCRC issued a report concluding that, in some respects, there was a lack of parity of war claims paid to the residents of Guam under the GMCA compared with awards that claimants who suffered similar injuries received under the War Claims Act and other laws providing compensation for U.S. nationals who were killed or injured as a result of an invasion or occupation by the Japanese Imperial forces during World War II.⁴ The GWCRC thus recommended that Congress authorize additional funding to provide compensation to residents of Guam for claims for death, rape, personal injury, forced labor, forced march, and internment (including hiding to avoid capture).⁵

² 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).

³ Guam War Claims Review Commission Act, Pub. L. 107-333, § 5(1), (5), 116 Stat. 2873, 2874 (2002).

⁴ See Guam War Claims Rev. Comm’n, Rep. on the Implementation of the Guam Meritorious Claims Act of 1945, at 77-78 (2004).

⁵ See *id.* at 80.

On December 23, 2016, President Obama signed into law the Guam World War II Loyalty Recognition Act, which established a supplemental war claims compensation program for claims arising from the attack and occupation of Guam by Imperial Japanese military forces during World War II. The Act recognizes two categories of eligible claimants: survivors of a “compensable Guam decedent” and “compensable Guam victim[s].”⁶ The Act defines a “compensable Guam decedent,” which is the basis for the category that applies to this claim, as

an individual determined . . . to have been 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 such Act.⁷

On June 20, 2017, the Commission published notice in the *Federal Register* announcing the commencement of a program to adjudicate claims for compensation under the Guam World War II Loyalty Recognition Act.⁸

DISCUSSION

As noted above, the Guam World War II Loyalty Recognition Act authorizes the Commission to award compensation to a survivor of a “compensable Guam decedent” where (1) the claimant establishes that the decedent was a resident of Guam (a) 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 (b) “whose death would have been compensable under the Guam Meritorious Claims Act of 1945 (Public

⁶ Guam World War II Loyalty Recognition Act, Pub. L. 114-328, § 1704(c)(1)-(2), 130 Stat. 2645 (2016).

⁷ *Id.* § 1704(c)(1).

⁸ Notice of Commencement of Claims Adjudication Program and of Deadline for Filing of Claims, 82 Fed. Reg. 28,093 (June 20, 2017).

Law 79-224) if a timely claim had been filed under the terms of such Act,” and (2) the claimant 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.⁹

1. *Decedent Is a “Compensable Guam Decedent”*

Claimants assert that the decedent, a resident of Guam, died from internal bleeding on July 15, 1944, hours after a Japanese soldier beat her with a bayonet on a forced march to an internment camp at Manenggon. To determine whether Claimants have established the “compensable Guam decedent” requirement—*i.e.*, the decedent died as a result of the attack and occupation of Guam and the death would have been compensable under the GMCA—we must first examine the historical standards and practices applied in awarding compensation for death claims under the 1945 Act.

Factual Backdrop to Claimant’s Allegations

Deaths suffered by residents of Guam during the war are described in public laws detailing appropriations made for death claims under the GMCA.¹⁰ Many of the deaths accounted for in these records involve injuries sustained during combat operations in 1941, when Japan attacked Guam, and in 1944, when United States military forces liberated the island. The casualties included Guamanians who were struck by machine gunfire, bombs, shrapnel, grenades, mines, and/or other ordnance.¹¹ Additionally, several Guamanians died after being executed or assaulted by Japanese officials during the occupation. While beheadings carried out by Japanese officials were the leading cause of deaths reported in

⁹ Guam World War II Loyalty Recognition Act §§ 1704(c)(1), 1704(b)(1)-(5).

¹⁰ See, e.g., H.R. Doc. No. 349 (1947).

¹¹ See *id.* at 4-5, 12, 16, 21, 32.

this category, some claims were brought by Guamanians who were beaten, bayoneted, stabbed, or shot at close range.¹² Fatal injuries sustained during accidents involving both Japanese and U.S. military vehicles were also the source of some deaths,¹³ while several missing persons were presumed dead after disappearing or being taken from their homes by Imperial Japanese forces.¹⁴ Forced labor and mistreatment “at the hands of the Japanese,” “mistreatment at the hands of the Japanese soldiers,” and living conditions at a Japanese internment camp in 1944 were reported as causes of death in a small number of claims.¹⁵

Factual Allegations Specific to Claimant

Claimants assert that the decedent, their mother, was a resident of Guam from 1916 until her death on July 15, 1944. Claimants allege that in July 1944, Japanese soldiers forced their family clan, including the decedent, to march from the family ranch in Maite to an internment camp at Manenggon. After the decedent “slipped and fell several times, which slowed up the group,” a Japanese soldier beat her “with a bayonet on her back as she was hunched over cradling [her youngest daughter],” who was 15 months old at the time. Claimants contend that the decedent suffered internal bleeding and passed away on July 15, 1944, approximately six hours after the “brutal beating.”

Supporting Evidence

Claimant Geraldine Torres Gutierrez has submitted on Claimants’ behalf a sworn Statement of Claim, which includes a notarized affidavit that describes the circumstances of the decedent’s death. She has also submitted three additional documents providing

¹² *See id.* at 3-5.

¹³ *See id.* at 3, 23-25, 31-33.

¹⁴ *See id.* at 25, 27, 33.

¹⁵ *See id.* at 24, 32.

further details about the decedent's passing: a transcript of a statement that Mrs. Gutierrez's daughter presented in 2001 at a hearing before the Senate Committee on Energy and Natural Resources, an apparent transcript of Mrs. Gutierrez's remarks at a 2011 Manenggon memorial service, and a 2011 news article about the service that was published in an unidentified newspaper.

The Commission takes notice of Congressional records detailing appropriations totaling \$3604.13 made for a death claim brought by the decedent's husband under the Guam Meritorious Claims Act of 1945. According to these records, the decedent "met her death when she was beaten by the Japanese" on July 15, 1944, "during the Japanese occupation." The Commission also takes notice of several sources that provide background about the Imperial Japanese Army's occupation of Guam during World War II, including many that relate specifically to the circumstances faced by Guamanians who were residents of the island at that time. These sources include historical accounts of Japan's capture and occupation of Guam, newspaper articles, memoranda from officials in the U.S. Navy, public laws detailing appropriations made for personal injury and death claims under the GMCA, a June 2004 report issued by the GWCRC, and testimony from survivors of the occupation who participated in hearings held by the GWCRC on Guam in December 2003.

Legal Standard

To establish that that the decedent was a "compensable Guam decedent," Claimants must show that she was 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 such Act.”¹⁶

Application of Standard to this Claim

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.”¹⁷ The Act further provides that “[s]uch material facts shall include . . . a detailed description of the injury or other circumstances supporting the claim involved.”¹⁸ Thus, to determine whether the decedent is a “compensable Guam decedent,” we look to the account of her death set forth in the sworn affidavit.

Decedent Was Guam Resident Who Died as a Result of the Japanese Occupation

Claimants’ sworn affidavit stating that the decedent was a Guam resident continuously from 1916 until she died on July 15, 1944, hours after being beaten with a bayonet by a Japanese soldier, sets forth all material facts required to establish a prima facie case that the decedent “was a resident of Guam who died as a result of the attack and occupation of Guam by Imperial Japanese military forces during World War II.” Claimants’ sworn statements are consistent with the evidence in the record, which shows that many Guamanians were killed by Imperial Japanese forces during this period, and that the death toll included several individuals who were beaten to death by Japanese soldiers. Thus, in the absence of rebutting evidence, the sworn statements averring that the decedent

¹⁶ See *supra* pp. 3-4.

¹⁷ Guam World War II Loyalty Recognition Act § 1705(b)(9).

¹⁸ See *id.*

was a lifelong resident of Guam who was killed in this manner are sufficient to establish that she “was a resident of Guam who died as a result of the attack and occupation of Guam by Imperial Japanese military forces during World War II.”

Decedent’s Death Would Have Been Compensable Under the 1945 Act

Claimants’ statements also set forth all material facts required to establish a prima facie case that the decedent’s 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 such Act.” The 1945 Act authorized compensation for a death that was the “the result of or incident to hostilities or hostile occupation, or . . . caused by or incident to noncombat activities of the United States Army Navy, or Marine Corps forces or individual members thereof, including military and civilian employees thereof.”¹⁹ The decedent’s death from internal bleeding that she sustained while being beaten by a Japanese soldier during a forced march to an internment camp clearly resulted from Japan’s “hostile occupation” of Guam. The compensability of the decedent’s death under the 1945 Act is further corroborated by Congressional records, described above, indicating that an award was issued in a claim for her death filed by her husband under the 1945 Act. Thus, in the absence of rebutting evidence, Claimants’ sworn statements are sufficient to establish that

¹⁹ An Act: For the relief of the residents of Guam through the settlement of meritorious claims, ch. 483, Pub. L. 79-224, § 1, 59 Stat. 582 (1945). The 1945 Act did not apply to the following cases: claims brought by individuals who were not permanent residents of Guam, claims not arising in Guam, and claims brought by individuals who provided certain assistance to enemy forces. *See id.* §§ 1, 5. None of these exceptions, however, apply to the allegations raised in the present claim.

the decedent's 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 such Act."

In sum, Claimants have established that the decedent is a "compensable Guam decedent" within the meaning of the GLRA.

2. *Claimants Are Decedent's Spouse, Child, or Parent Living on December 23, 2016*

Claimants have submitted sufficient evidence to establish that they are children of the decedent and the only known survivors among the decedent's spouse, children, and parents who were living as of December 23, 2016.²⁰ They have provided a sworn and notarized claim form that identifies known survivors of the decedent who were living on December 23, 2016, and that was signed after the Commission published notice of the program's commencement on June 20, 2017. Further, our review of death records from the Social Security Administration and other sources has yielded no evidence that Claimants are not the decedent's children or were not living on December 23, 2016. Therefore, Claimants meet this element of their claim.

In sum, Claimants are "survivors" of a "compensable Guam decedent" and are thus entitled to compensation.

COMPENSATION

Having concluded that the present claim is compensable, the Commission must next determine the appropriate amount of compensation.

²⁰ While both Claimants were living at the time the claim form was signed in 2017, Claimant Helene Torres passed away in 2018, and this claim is thus being brought on behalf of her estate. Additionally, the Commission's staff's review of public records indicates that the decedent's husband and eldest daughter, who were also beneficiaries of her death claim under the 1945 Act, passed away in 1996 and 2008 respectively.

Our determination in this regard is governed by the express terms of the GLRA. Specifically, 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 Section 1704(b).²¹ 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 [her] children, to be divided among such children to the greatest extent possible into equal shares.”²² Thus, as the only surviving children of the decedent eligible for payment, each Claimant is entitled to one half of the \$25,000 payment, which amounts to an award of \$12,500 for each.

Deductions in Payment

Pursuant to the GLRA, the Commission is required to deduct, from a payment made to a compensable Guam victim or survivors of a compensable Guam decedent, amounts paid to such victim or survivors under the Guam Meritorious Claims Act of 1945, Public Law 79-224,²³ before the date of the enactment of the GLRA.²⁴ The evidence in the record shows that while Claimants received compensation for the decedent’s death under the 1945 Act, these payments have already been deducted from awards the Commission previously issued in their claims as “compensable Guam victim[s]” under the Act.²⁵ Therefore, no deduction in payment will be made from Claimants’ awards.

In summary, GERALDINE TORRES GUTIERREZ and the ESTATE OF HELENE TORRES are each entitled to an award of \$12,500. This amount constitutes the

²¹ See Guam World War II Loyalty Recognition Act § 1704(b)(1)-(4).

²² *Id.* § 1704(b)(3).

²³ See 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).

²⁴ See Guam World War II Loyalty Recognition Act § 1705(b)(4).

²⁵ See Claim No. GUAM-3257, Decision No. GUAM-at 3042, at 3; Claim No. GUAM-3259, Decision No. GUAM-2403 at 3.

entirety of the compensation to which Claimants are entitled under the GLRA.²⁶ The Commission hereby enters the following awards, which will be certified to the Secretary of the Treasury for payment under Section 1705 of the GLRA.²⁷

AWARD

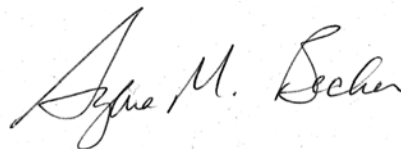
Claimant GERALDINE TORRES GUTIERREZ is entitled to an award in the amount of \$12,500.

Claimant ESTATE OF HELENE TORRES is entitled to an award in the amount of \$12,500.

Dated at Washington, DC, March 25, 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 (2019).

²⁶ Under the GLRA, interest is not available on payments made by the Commission under Section 1704. *Id.* § 1705(b)(5).

²⁷ *Id.* § 1705(b)(8).