

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

In the Matter of the Claim of	}	
	}	
	}	
5 U.S.C. §552(b)(6)	}	Claim No. IRQ-I-028
	}	
	}	Decision No. IRQ-I-003
Against the Republic of Iraq	}	
	}	

PROPOSED DECISION

Claimant brings this claim against the Republic of Iraq (“Iraq”) for injuries suffered during his military service in the Gulf War. Because Claimant did not receive money from the State Department for a hostage-taking claim (which is a jurisdictional requirement in this Program), the Commission lacks jurisdiction over his claim. In other words, the Commission lacks the authority to hear the merits of his claim. Therefore, the claim is denied.

BACKGROUND AND BASIS OF CLAIM

Claimant states that he served with the U.S. Army during the Gulf War. Following the end of his tour in May 1991, Claimant was then honorably discharged from the U.S. Army in August 1991. He claims to have suffered a number of injuries as a result of his service, including “schizoaffective disorder with [post-traumatic disorder] traits, chronic lower back pain, chronic obstructive pulmonary disease[,] . . . mild to profound sensorineural hearing loss of the right ear[, and] [i]ntrusive recollections of the

Persian Gulf War experience.” According to Claimant, he lost his job with the U.S. Postal Service in 1999 due to his inability to communicate with his colleagues.

In September 2010, the United States and Iraq concluded a lump-sum settlement agreement. *See Claims Settlement Agreement Between the Government of the United States of America and the Government of the Republic of Iraq*, Sept. 2, 2010, T.I.A.S. No. 11-522 (“Claims Settlement Agreement” or “Agreement”). The Agreement, which came into force in May 2011, covered a number of personal injury claims of U.S. nationals arising from acts of the former Iraqi regime occurring prior to October 7, 2004. Exercising its authority to distribute money from the settlement funds, the State Department provided compensation to numerous individuals whose claims were covered by the Agreement, including some whom Iraq had taken hostage or unlawfully detained following Iraq’s 1990 invasion of Kuwait. In his Statement of Claim, Claimant indicates that he was not among those that the State Department compensated.

The State Department’s Legal Adviser then requested that the Commission commence a claims program to provide additional compensation for certain injuries suffered by some of the hostages that it had already compensated. The State Department made its request in a letter dated November 14, 2012, which is known as the “Referral” or the “2012 Referral.” *See Letter dated November 14, 2012, from the Honorable Harold Hongju Koh, Legal Advisor, Department of State, to the Honorable Timothy J. Feighery, Chairman, Foreign Claims Settlement Commission.* The State Department was able to make that request because the United States Congress gave it the authority to do so in a federal statute. *See* 22 U.S.C. § 1623(a)(1)(C) (2012) (granting the Commission jurisdiction to “receive, examine, adjudicate, and render a final decision with respect to any claim of the Government of the United States or of any national of the United

States . . . included in a category of claims against a foreign government which is referred to the Commission by the Secretary of State”).

Importantly, the State Department directed this Commission to consider in this Program only claims of those that the State Department itself has already compensated. As the State Department’s Referral letter put it, the category of claims consists of “claims . . . for serious personal injuries knowingly inflicted . . . by Iraq . . . *provided that . . . the claimant has already received compensation under the Claims Settlement Agreement from the Department of State*¹ for his or her claim of hostage-taking” See 2012 Referral at ¶ 3 (emphasis added) (footnote omitted). The Commission then commenced the Iraq Claims Program to decide claims under the 2012 Referral. *Commencement of Iraq Claims Adjudication Program*, 78 Fed. Reg. 18,365 (Mar. 26, 2013).

Claimant submitted a Statement of Claim form under the 2012 Referral, along with a signed statement, evidence of his U.S. nationality, a letter from the Commission to the Claimant regarding the status of claim-related information he submitted to the Commission in 1996, a number of documents showing his military service, decisions from the Department of Veterans Affairs and the Social Security Administration detailing his condition, and documents from the U.S. Postal Service regarding his employment.

DISCUSSION

Jurisdiction

Without jurisdiction, this Commission cannot provide compensation. The term “jurisdiction” refers to the authority or power of this Commission to decide a claim (that is, even to consider the facts in the claim at all). In this Program, it is the State Department’s 2012 Referral that sets forth this Commission’s jurisdiction. See 22 U.S.C.

§ 1623(a)(1)(C). Thus, the Commission has jurisdiction to entertain only claims of individuals who, among other things, “already received compensation under the Claims Settlement Agreement from the Department of State¹ for [their] claim of hostage-taking.” 2012 Referral, *supra*, ¶ 3. Claimant has not submitted any evidence to show that he has received compensation from the State Department for a claim of hostage-taking. In fact, Claimant states just the opposite. His Statement of Claim form states that he did not receive compensation from the State Department. Therefore, the Commission is constrained to conclude that the present claim does not meet the jurisdictional requirements set forth in the 2012 Referral. In other words, the Commission has no authority or power to decide the merits of this claim.

Accordingly, this claim must be and is hereby denied for lack of jurisdiction.

The Commission makes no determinations about any other aspects of this claim.

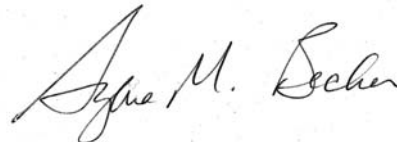
Dated at Washington, DC, February 21, 2014
and entered as the Proposed Decision
of the Commission.

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

April 15 2014



Anuj C. Desai, Commissioner



Sylvia M. Becker, Commissioner

NOTICE: Pursuant to the Regulations of the Commission, any objections must be filed within 15 days after 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) (2013).