

**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-027
	}	
	}	Decision No. IRQ-I-002
Against the Republic of Iraq	}	
_____	}	

FINAL DECISION

Claimant objects to the Commission’s Proposed Decision denying his claim against the Republic of Iraq (“Iraq”). In that decision, the Commission concluded that it had no legal authority to decide his claim because he had not previously received compensation for a hostage-taking claim from the State Department, which is an explicit requirement of the letter from the State Department that legally authorized the Commission to hear claims in this program. Claimant contends that the way in which he allegedly suffered his injuries—being exposed to nerve gas during the demolition of a munitions depot in Iraq in March 1991—nonetheless entitles him to compensation. He does not, however, give any reasons to question the Proposed Decision’s conclusion that the Commission has no jurisdiction (i.e., legal authority) to provide him compensation in this program, and we still see none. We thus affirm the Proposed Decision’s conclusion that this claim be denied for lack of jurisdiction.

BACKGROUND

By Proposed Decision entered February 21, 2014, the Commission denied this claim on the ground that Claimant did not meet the jurisdictional requirements as contemplated in the State Department's letter to the Commission establishing this program. *See Letter dated November 14, 2012, from the Honorable Harold Hongju Koh, Legal Adviser, Department of State, to the Honorable Timothy J. Feighery, Chairman, Foreign Claims Settlement Commission* ("2012 Referral" or "Referral"). The Commission concluded that the 2012 Referral limited the Commission's jurisdiction (i.e., its legal authority to hear claims) to hearing only claims brought by those who had already received compensation from the State Department for a claim of hostage-taking under the U.S.-Iraq Claims 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"). Since Claimant himself stated that he had not received such compensation, the Commission denied his claim. *See Claim No. IRQ-I-027, Decision No. IRQ-I-002 (Proposed Decision) (2014)*.

On April 3, 2014, Claimant filed an objection to the Proposed Decision. He did not request a hearing. Accordingly, by letter dated April 14, 2014, the Commission advised Claimant that his claim would be decided on the written record and requested that Claimant submit any further evidence in support of his objection no later than May 14, 2014. Claimant thereafter submitted a letter dated May 12, 2014. No further evidence was submitted.

DISCUSSION

The Commission acknowledges Claimant's military service and is sympathetic to all that he endured as a result of his service. After carefully considering Claimant's evidence and argument, however, we are constrained to reaffirm our conclusion that the Commission lacks jurisdiction to entertain this claim under the 2012 Referral.

As noted in the Proposed Decision, this program is limited to those who had a claim of hostage-taking against Iraq,¹ and who had already received compensation from the State Department for that claim. Since Claimant was not among those who received compensation from the State Department for a claim of hostage-taking, we simply have no jurisdiction (i.e., authority) to hear the merits of his claim.

It is important to note that we make no determination about the factual or legal validity of Claimant's claim: our lack of jurisdiction thus in no way precludes Claimant from pursuing his claim in some other forum. All that we have found is that this Commission cannot hear his claim in this program.

Finally, Claimant has requested that we "send [his] claim before a commission that does not just look at soldiers that were prisoners of war,"² but those who were severely harmed by what was done to them by our own government in that area of operation." However, this Commission only adjudicates claims against foreign governments that Congress or the State Department gives it authority to hear. *See* 22 U.S.C. § 1623(a)(1) (2012). It has no power to send claims to any other commission, and we thus cannot do what Claimant asks.

¹ In Claimant's objection, he indicates that he thought the program "was for prisoners of war." To clarify, this particular program is for those who had claims of hostage-taking and does not include any prisoners of war.

² As noted in footnote 1 above, this program is not for "prisoners of war," but rather is only for a limited group of hostages.

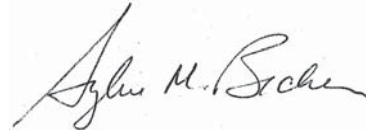
CONCLUSION

In light of the fact that Claimant did not make a hostage-taking claim against Iraq and receive compensation from the State Department for that claim, the denial set forth in the Proposed Decision in this claim must be and is hereby affirmed. This constitutes the Commission's final determination in this claim.

Dated at Washington, DC, November 6, 2014
and entered as the Final Decision
of the Commission.



Anuj C. Desai, Commissioner



Sylvia M. Becker, Commissioner

**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-027
	}	
	}	Decision No. IRQ-I-002
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. He claims that, while there, he may have been exposed to nerve agents during the March 1991 demolition of a munitions depot near Khamisiyah, Iraq. Due to this exposure, he says that he has suffered both serious mental anguish and severe health problems. Claimant left Iraq in April 1991 and then retired from the military in March 1997.

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 Adviser, 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 had already compensated.

As the State Department's 2012 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, two letters from the Commission to the Claimant regarding the status of claim-related information he submitted to the Commission in 1996, a letter from the Department of Defense regarding claimant's potential exposure to nerve agents during his service in Iraq, and a Certificate of Discharge from active duty.

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 State^[1] 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 says 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.

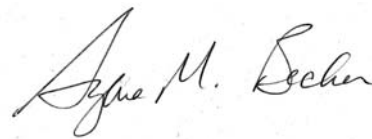
Accordingly, this claim must be and is hereby denied for lack of jurisdiction.

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

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



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).