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Correspondent: **TIM SAUNDERS**

Subject/Description: **OVERSIZE ATTACHMENT # 9468 NARA # 9359 BOX 4
FOLDER 1E BILL FILES RECEIVED FROM THE OFFICE OF
THE EXECUTIVE CLERK - OCT 01 02 ENROLLED BILL S.
1834 - FOR THE RELIEF OF RETIRED SERGEANT FIRST
CLASS JAMES D. BENOIT AND WAN SOOK BENOIT**

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

APPROVED

OCT 1 2002

THE DIRECTOR

September 24, 2002

02 SEP 24 PM 1:30

MEMORANDUM FOR THE PRESIDENT

SUBJECT: Enrolled Bill S. 1834 - For the relief of retired Sergeant First Class James D. Benoit and Wan Sook Benoit
Sponsor - Senator Levin (D) Michigan

Last Day for Action

October 2, 2002 - Wednesday

Purpose

Requires a payment to retired Sergeant First Class James Benoit and Wan Sook Benoit to satisfy claims concerning the wrongful death of their son, David Benoit.

Agency Recommendations

Office of Management and Budget

Approval

Department of Defense (DoD)

Approval

Department of the Treasury

No objection (Informally)

Department of Justice

No comment (Informally)

Discussion

On June 28, 1983, David Benoit, the three-year-old son of James and Wan Sook Benoit, fell out of a seventh floor window of the family's military quarters in Seoul, Korea. David Benoit was taken to a military hospital and then transferred to a civilian hospital, where he died the next day.

The Benois filed a claim for damages resulting from David Benoit's death under the Military Claims Act, which authorizes the Secretary of the military department concerned to prescribe regulations governing the settlement and payment of certain claims for noncombat property loss, personal injury, or death. The Department of the Army admitted negligence with regard to the window screen, and in 1985 paid the Benois \$70,000 to settle the claim, which under the Military Claims Act is final and conclusive.

The Benoits appealed the settlement to the Congress. In 1998, the Senate referred the matter to the United States Court of Federal Claims under statutory procedures for requesting a recommendation as to whether there is an equitable basis upon which Congress should compensate the claimant. On May 23, 2002, the Court determined that the Benoits had an equitable claim against the United States and recommended that the Benoits be awarded \$415,000 for the wrongful death of their son.

S. 1834 authorizes and directs the Secretary of the Treasury to pay \$415,000 to retired Sergeant First Class James D. Benoit and Wan Sook Benoit. No more than 10 percent of the payment may be paid to an agent or attorney connected with the claim.

Conclusion and Recommendations

We join DoD in recommending the approval of S. 1834, which passed both Houses of Congress by unanimous consent.



Mitchell E. Daniels, Jr.
Director

Enclosures

One Hundred Seventh Congress
of the
United States of America

AT THE SECOND SESSION

*Begun and held at the City of Washington on Wednesday,
the twenty-third day of January, two thousand and two*

An Act

For the relief of retired Sergeant First Class James D. Benoit and Wan Sook Benoit.

*Be it enacted by the Senate and House of Representatives of
the United States of America in Congress assembled,*

SECTION 1. REQUIREMENT TO PAY CLAIMS.

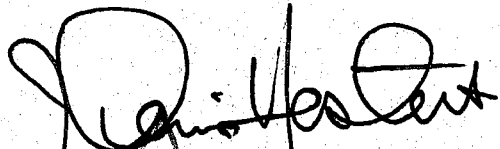
(a) **PAYMENT REQUIRED.**—The Secretary of the Treasury is authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to James D. Benoit and Wan Sook Benoit, jointly, the sum of \$415,000, in full satisfaction of all claims described in subsection (b), such amount having been determined by the United States Court of Federal Claims as being equitably due the said James D. Benoit and Wan Sook Benoit pursuant to a referral of the matter to that court by Senate Resolution 129, 105th Congress, 1st session, for action in accordance with sections 1492 and 2509 of title 28, United States Code.

(b) **COVERED CLAIMS.**—Subsection (a) applies with respect to all claims of the said James D. Benoit, Wan Sook Benoit, and the estate of David Benoit against the United States for compensation and damages for the wrongful death of David Benoit, the minor child of the said James D. Benoit and Wan Sook Benoit, pain and suffering of the said David Benoit, loss of the love and companionship of the said David Benoit by the said James D. Benoit and Wan Sook Benoit, and the wrongful retention of remains of the said David Benoit, all resulting from a fall sustained by the said David Benoit, on June 28, 1983, from an upper level window while occupying military family housing supplied by the Army in Seoul, Korea.

S. 1834—2

SEC. 2. LIMITATION ON USE OF FUNDS FOR ATTORNEYS' FEES.

No part of the amount appropriated by section 1 in excess of 10 percent thereof shall be paid or delivered to or received by any agent or attorney on account of services rendered in connection with this claim, any contract to the contrary notwithstanding. Violation of the provisions of this section is a misdemeanor punishable by a fine not to exceed \$1,000.



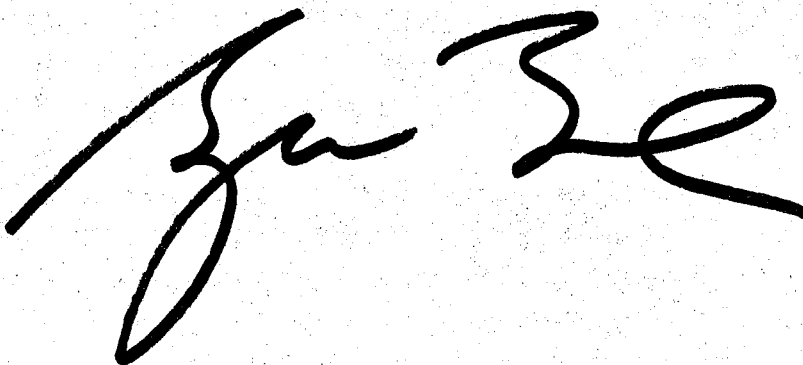
Speaker of the House of Representatives.



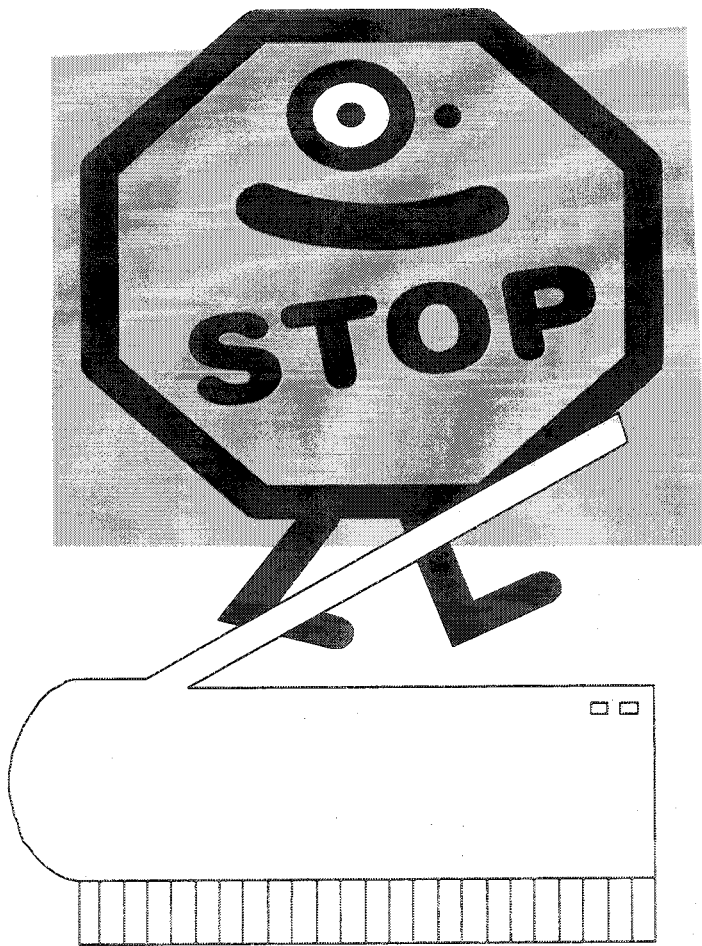
*Vice President of the United States and
President of the Senate pro tempore.*

APPROVED

OCT 1 2002



ORM
Scanning insert sheet



Remainder of case not scanned

Bills Received at the White House

Date received and
notification to OMB: 9/20/2002
Last day for action: 10/2/2002

S.1834

Official Title

An Act for the relief of retired Sergeant First Class James D.
Benoit and Wan Sook Benoit

518698

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GENERAL COUNSEL

GENERAL COUNSEL OF THE DEPARTMENT OF DEFENSE
1600 DEFENSE PENTAGON
WASHINGTON, D. C. 20301-1600

SEP 23 2002

The Honorable Mitchell E. Daniels, Jr.
Director, Office of Management and Budget
725 17th Street N.W.
Washington, DC 20503-0001

Dear Mr. Daniels:

This is in response to the request of your Office for the views of the Department of Defense on the enrolled bill, S. 1834, "For the relief of retired Sergeant First Class James D. Benoit and Wan Sook Benoit".

This private bill requires the Secretary of the Treasury to pay Sergeant and Mrs. Benoit \$415,000, jointly, in full satisfaction of their claims against the United States arising out of their son's death as a result of a fall from an upper-story window while occupying military family housing in Seoul, Republic of Korea, on June 28, 1983.

The Department of Defense recommends approval of this private bill because it is consistent with the Court of Federal Claims' decision in the case, Benoit v. United States, Cong. No. 98-858X (Fed. Cl. 2001).

Sincerely,

A handwritten signature in black ink, appearing to read "WJ Haynes II".

William J. Haynes II



One Hundred Seventh Congress
of the
United States of America

AT THE SECOND SESSION

*Begun and held at the City of Washington on Wednesday,
the twenty-third day of January, two thousand and two*

An Act

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(b) **COVERED CLAIMS.**—Subsection (a) applies with respect to all claims of the said James D. Benoit, Wan Sook Benoit, and the estate of David Benoit against the United States for compensation and damages for the wrongful death of David Benoit, the minor child of the said James D. Benoit and Wan Sook Benoit, pain and suffering of the said David Benoit, loss of the love and companionship of the said David Benoit by the said James D. Benoit and Wan Sook Benoit, and the wrongful retention of remains of the said David Benoit, all resulting from a fall sustained by the said David Benoit, on June 28, 1983, from an upper level window while occupying military family housing supplied by the Army in Seoul, Korea.

S. 1834—2

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Speaker of the House of Representatives.

*Vice President of the United States and
President of the Senate.*



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

THE DIRECTOR

September 24, 2002

MEMORANDUM FOR THE PRESIDENT

SUBJECT: Enrolled Bill S. 1834 - For the relief of retired Sergeant First Class James D. Benoit and Wan Sook Benoit
Sponsor - Senator Levin (D) Michigan

Last Day for Action

October 2, 2002 - Wednesday

Purpose

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Agency Recommendations

Office of Management and Budget

Approval

Department of Defense (DoD)

Approval

Department of the Treasury

No objection (Informally)

Department of Justice

No comment (Informally)

Discussion

On June 28, 1983, David Benoit, the three-year-old son of James and Wan Sook Benoit, fell out of a seventh floor window of the family's military quarters in Seoul, Korea. David Benoit was taken to a military hospital and then transferred to a civilian hospital, where he died the next day.

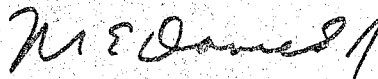
The Benois filed a claim for damages resulting from David Benoit's death under the Military Claims Act, which authorizes the Secretary of the military department concerned to prescribe regulations governing the settlement and payment of certain claims for noncombat property loss, personal injury, or death. The Department of the Army admitted negligence with regard to the window screen, and in 1985 paid the Benois \$70,000 to settle the claim, which under the Military Claims Act is final and conclusive.

The Benoits appealed the settlement to the Congress. In 1998, the Senate referred the matter to the United States Court of Federal Claims under statutory procedures for requesting a recommendation as to whether there is an equitable basis upon which Congress should compensate the claimant. On May 23, 2002, the Court determined that the Benoits had an equitable claim against the United States and recommended that the Benoits be awarded \$415,000 for the wrongful death of their son.

S. 1834 authorizes and directs the Secretary of the Treasury to pay \$415,000 to retired Sergeant First Class James D. Benoit and Wan Sook Benoit. No more than 10 percent of the payment may be paid to an agent or attorney connected with the claim.

Conclusion and Recommendations

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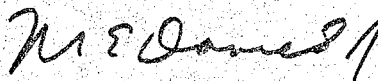
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02 SEP 24 09:51

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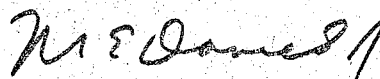
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