

**‘IT’S AN
INJUSTICE...
EVERYONE
WHO LOST
SOMEONE
THAT DAY
SHOULD BE
TREATED
EQUITABLY’**

◆ Investigations
Correspondent Martyn
McLaughlin looks into
the ‘unfair anomaly’ in the
Sword family’s fight for
compensation over the
9-11 loss of their beloved
son and brother



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They’re well looked after’
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excuse for Ferguson**



Celtic v Rangers



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Family of 9/11 victim Scot suing the US government

◆ Mum and brother of businessman
killed in New York terror attack were
turned down by compensation fund

EXCLUSIVE

Martyn McLaughlin
Investigations Correspondent

The family of a Scottish man
killed in the September 11
terror attacks is challenging
the US government
in court after being
refused access to a
multi-billion pound
compensation fund.

Nearly a quarter
of a century on, the
brother and mother of
Derek Sword, from Dundee,
are taking legal action against
the US Department of Justice
after their application to the
Victims of State Sponsored
Terrorism fund was denied.

Mr Sword’s brother Graeme



told Scotland on Sunday it
was fundamentally unfair
that his family should be
excluded from the scheme
on account of the fact neither
they nor Derek were US
nationals at the time of
the attack. Banker Derek,
inset, who was 29, was
working in the World
Trade Centre’s south
tower when it was
struck by a hijacked
plane. His body was
never found.
“He was in exactly
the same situation as the US
victims, the only difference
being the passport he was
carrying at that moment in
time,” said Graeme.

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PICTURE: FRANCO ARLAND/GETTY IMAGES

French toast

**Celebrations for home side
as Scotland’s efforts can’t
serve up title twist in Paris**

Six Nations, see Sport

A frustrated Finn Russell reflects on Scotland’s performance at the Stade de France last night, which wasn’t enough to deny the home side the Six Nations championship after Ireland had beaten Italy 22-17 in Rome and England went to Cardiff and thrashed Wales 68-14

The family of a Scottish businessman who was killed in the September 11 terrorist attacks is taking legal action against the US government after being denied access to a multi-billion pound compensation fund, Scotland on Sunday can reveal.

Derek Sword was among nearly 3,000 victims of the worst terrorist attack in US history when a hijacked passenger plane struck the south tower of New York's World Trade Centre (WTC) in September 2001 where his offices were based.

While thousands of loved ones of 9/11 victims have been able to share billions of pounds in compensation via the Victims of State Sponsored Terrorism (VSST) fund, which was set up by the US Congress a decade ago, the Swords are among a small minority of families who have been refused access, essentially on the basis that neither they nor their loved ones were US citizens at the time of the atrocity.

The Scottish family and other non US nationals who lost loved ones in the attacks successfully secured court judgments last year against Iran for its



“
He was the life and the soul... his death was a huge loss to the family
”

tower, Mr Sword, from Dundee, called his new fiancée, as well as his parents back home in Scotland, to reassure them he was safe. But moments later, the hijacked United Airlines Flight 175 ploughed into the south tower. Mr Sword called Ms Sullivan again as he tried to flee the burning skyscraper. One of 69 KBW employees killed that day, his body was never found.

Now, nearly a quarter of a century on from the devastating attacks, Mr Sword's brother, Graeme, and his mother, Irene, are among 154 plaintiffs in a civil action seeking to overturn the VSST fund's decision to deny them compensation.

Since its inception, the fund, which is administered by the DoJ, has paid out more than \$6 billion (£4.6bn) to eligible claimants across five rounds of payments, around half of which has been allocated to those impacted by the 9/11 attacks.

While the overwhelming majority of claimants to the fund have cited so-called 1605a judgments via the Foreign Sovereign Immunities Act, which allows foreign governments to be sued in US courts, that legislation can only be relied upon by US citizens. The successful court ruling for the Sword family and other plaintiffs



role in facilitating the attacks by aiding and abetting al Qaeda. They and their lawyers hoped the development would lead to a breakthrough in their efforts to obtain compensation.

But because of the legislation under which that action was brought, the US Department of Justice (DoJ) has told the Swords and other would-be claimants they “do not hold qualifying final judgments” under the rules of the fund, prolonging their long wait for justice.

Mr Sword was a vice-president at Keefe, Bruyette & Woods (KBW), an investment bank that occupied the 88th and 89th floors of the World Trade Centre's (WTC) south tower. He had moved to New York six years earlier, starting out as an associate before quickly impressing to gain a series of promotions.

In the 29-year-old's personal life, there was also much to look forward to at the turn of the millennium. Indeed, just 17 days before the terror attack, he had proposed to his partner, Maureen Sullivan, planning for a future that would be cruelly cut short.

After the first plane hit the WTC's north

Clockwise from main: Derek Sword, an avid squash player, was working in the south tower of New York's World Trade Center when the terrorists struck; people at the south tower memorial pool during the 23rd anniversary of the attacks last year; a touching tribute to one of the victims; Attorney General Pam Bondi; Allan, Graeme, and Derek Sword pictured at Graeme's wedding in April 2020; an aerial view of the aftermath of the attacks; Graeme Sword

against Iran was a 1605b judgment, achieved via the Justice Against Sponsors of Terrorism Act, a law introduced after the fund's creation, which allows non-US nationals to take action.

In a letter to the Swords and other families, the DoJ said while it acknowledged their suffering and loss, the only qualifying judgments that would allow for a claim were those issued under 1605a. “Finding claims eligible for the fund based on judgments issued under a separate provision of law, or judgments issued to other plaintiffs, would contravene the act,” it explained.

But in an interview with Scotland on Sunday, Graeme, 56, questioned the DoJ's stance. He said his family did not make any distinction between Derek's death and the losses endured by so many people in the US.

“He was living in New York, working for a US firm, engaged to be married, and was going to settle down there,” he explained. “He was in exactly the same



situation as the US victims, the only difference being the passport he was carrying at that moment in time. That day impacted everybody in the same way and it seems odd to distinguish based upon that.

“It seems like bureaucracy and an unfair anomaly. You'd like to think it could be resolved so that all this time later, people can move on. I don't see any difference between a US national and someone who wasn't.”

Graeme added: “It is coming up for 25 years since 9/11 and nothing ever brings

Derek back. There are certain times, certain anniversaries, where it all comes back to you – that is always going to be there. But in terms of the bureaucracy and the litigation, to still be working through who's eligible and who's not for certain compensation, you'd have hoped by now that people would be trying to resolve this so that families like us can move on.”

After nearly a quarter of a century, the Swords have tried to do just that as best they can.

Graeme has forged a successful career in private equity finance, and his mother, Irene – “a typically stoic Scottish woman who keeps her head up and cracks on”, according to Graeme – keeps in touch regularly with Maureen, and attends 9/11 remembrance events in New York.

But five years ago, the family suffered another tragedy when Derek's twin brother, Allan, was killed in a hit-and-run incident in Bahrain. The tragedy left Graeme as the sole surviving brother among three siblings united by their love of sport – Derek, an avid squash player, was a Scottish junior international, and



champion of the New York Athletic Club – and careers in finance.

“It's a remarkable sequence of events to lose twins in separate tragic circumstances,” he reflected. “They grew up inseparably, playing sports together and going to the same college course.”

When a New York court found in favour of the Swords and other non-US nationals in their action against Iran last year, the presiding judge ordered that Irene and Graeme should receive \$8.5m and \$4.25m respectively in damages. But the family have received nothing from Tehran, and it is unlikely they ever will, given Iran has never responded to legal action by 9/11 families.

Instead, that judgment's significance is rooted in its relevance to the VSST fund, according to Bruce Strong, from the law firm Anderson Kill, who is representing the Swords in the latest legal action.

He said the denial of access to compensation to the Swords and other families of those who perished, simply because they and their loved ones were not US nationals at the time of the attacks, flies in the face of the fund's founding principles.

He told Scotland on Sunday: “Clearly there's been an injustice here, where 99 per cent of the family members of



loved ones of people that were killed in the attacks are able to participate in the fund and receive compensation for the worst day of their lives. Meanwhile, this small group of people are locked out completely.

“It doesn't have to be this way. The VSST legislation can be interpreted in a way to allow these people access, and why wouldn't you want to give them comfort and some semblance of justice? We're going to fight this and hope that the court will reverse the fund's unjust decision. We think everyone who lost someone that day should be treated equitably.”

The Swords are one of a number of British families represented in the legal action against the DoJ and Attorney General Pam Bondi. They include the relatives of Goodwin Forde, a 38-year-old from London who worked as a security guard for Morgan Stanley in the south WTC tower, and the family of Stephen Philip Morris, a 31-year-old database consultant from Cheshire who worked in the north tower.

The complaint, filed in the US District Court for the District of Columbia, points

out “the terrorists did not distinguish between US citizens and non-citizens when they hijacked the planes and crashed them into the World Trade Centre towers, the Pentagon, and a field in Shanksville, Pennsylvania”.

It argues the fund's decision to deny the Swords and others compensation “runs afoul of congressional intent”, adding: “Different groups of terror victims of the same attack should not receive grossly different levels of compensation. Here, over 12,641 9/11-related claimants of the fund have received, or are eligible to receive, tens, if not hundreds, of thousands of dollars. These 154 plaintiffs have received nothing. That's not fair.”

The DoJ declined to comment when contacted by Scotland on Sunday.

For the Swords and the other families, that legal battle continues, and as Graeme makes clear, the most important thing is to ensure that Derek's memory is kept alive. “Everyone who knew him has a story, and remembers him with a smile on their face,” he said. “He was the life and soul, and his death was a huge loss to the family and everyone who knew him.”