

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

IN THE MATTER OF THE CLAIM OF

GEORGE N. GIFFIN

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU-1891

Decision No. CU-
1970

Counsel for claimant:

J. Clinton Scott, Esq.

PROPOSED DECISION

This claim against the Government of Cuba, filed under Title V of the International Claims Settlement Act of 1949, as amended, in the amount of \$330,537.00, was presented by GEORGE N. GIFFIN, and is based upon the asserted loss of an interest in improved real property and personal property located in La Gloria, Camaguey, Cuba. Claimant has been a national of the United States at all times pertinent to this claim.

Under Title V of the International Claims Settlement Act of 1949 [78 Stat. 1110 (1964), 22 U.S.C. §§1643-1643k (1964), as amended, 79 Stat. 988 (1965)], the Commission is given jurisdiction over claims of nationals of the United States against the Government of Cuba. Section 503(a) of the Act provides that the Commission shall receive and determine in accordance with applicable substantive law, including international law, the amount and validity of claims by nationals of the United States against the Government of Cuba arising since January 1, 1959 for

losses resulting from the nationalization, expropriation, intervention or other taking of, or special measures directed against, property including any rights or interests therein owned wholly or partially, directly or indirectly at the time by nationals of the United States.

Section 502(3) of the Act provides:

The term 'property' means any property, right, or interest including any leasehold interest, and debts owed by the Government of Cuba or by enterprises which have been nationalized, expropriated, intervened, or taken by the Government of Cuba and debts which are a charge on property which has been nationalized, expropriated, intervened, or taken by the Government of Cuba.

Section 504 of the Act provides, as to ownership of claims, that

(a) A claim shall not be considered under section 503(a) of this title unless the property on which the claim was based was owned wholly or partially, directly or indirectly by a national of the United States on the date of the loss and if considered shall be considered only to the extent the claim has been held by one or more nationals of the United States continuously thereafter until the date of filing with the Commission.

The Regulations of the Commission provide:

The claimant shall be the moving party and shall have the burden of proof on all issues involved in the determination of his claim. (FCSC Reg., 45 C.F.R. §531.6(d) (Supp. 1967).)

Claimant asserts the loss of land, improvements, and personal property located in La Gloria, Camaguey, Cuba, said to have been acquired by purchase and inheritance. The record contains copies of claimant's Foreign Service Certificate of Identity and Registration dated July 23, 1944; of the birth certificate of Harold D. Giffin; and of the marriage certificate of Harold and Lola Giffin. In addition, the record includes claimant's letter of about July 1960 to the Department of State listing the real property involved and which enclosed his affidavit concerning the property.

By Commission letter of August 22, 1967, claimant was advised, through counsel, as to the type of evidence proper for submission to establish this claim under the Act, specifically evidence of ownership as well as any action taken by the Government of Cuba against the property as well as value. No evidence was received in response to this correspondence. On October 9, 1967, counsel was invited to submit any available evidence within 45 days from that

date, and he was informed that, absent such evidence, it might become necessary to determine the claim on the basis of the existing record. In response to this correspondence, counsel for claimant submitted, by letter of October 20, 1967, a listing of the real property claimed, a photocopy of an inventory of the personal property assertedly owned by claimant, and the copies of certificates described above.

Thereafter, on February 12, 1968, additional suggestions were made by telephone to counsel as to the type of evidence necessary to establish this claim under the Act. Such evidence has not been submitted.

An examination of the record in this claim discloses that the 1960 statement to the Department of State, signed by claimant and his parents, described the subject property as owned by Harold D. Giffin and Lois S. Giffin. Claimant has not submitted evidence to establish any ownership interest, by him, in the property claimed; neither has he proven his inheritance of any interest in the claim subsequent to loss. Moreover, claimant has failed to establish the loss of the property, or its value at that time.

Other than claimant's statements, unsupported by any other evidence, the record does not contain proof of these aspects of the claim. Although claimant has stated in the 1960 letter that he possesses documentation in support of his claim, it has not been presented to the Commission for consideration.

The Commission is aware of the difficulties which some claimants face in establishing their claims. This is not to say, however, that the Commission should make a favorable determination when such action is not supported by the evidence of record.

The Commission finds that claimant has not met the burden of proof in that he has failed to establish ownership of rights and interests in property which was nationalized, expropriated or otherwise taken by the Government of Cuba. Accordingly, this claim is denied. The Commission deems it unnecessary to make determinations with respect to other elements of the claim.

Dated at Washington, D. C.,
and entered as the Proposed
Decision of the Commission

JUN 13 1968

Leonard v. B. Sutton

Leonard v. B. Sutton, Chairman

Theodore Jaffe

Theodore Jaffe, Commissioner

Notice: Pursuant to the Regulations of the Commission, if no objections are filed within 15 days after service or receipt of notice of this Proposed Decision, the decision will be entered as the Final Decision of the Commission upon the expiration of 30 days after such service or receipt of notice, unless the Commission otherwise orders. (FCSC Reg.; 45 C.F.R. 531.5(e) and (g) as amended, 32 Fed. Reg. 412-13 (1967).)