

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

IN THE MATTER OF THE CLAIM OF

JENNIE MAYORKAS

Under the International Claims Settlement  
Act of 1949, as amended

Claim No. CU - 1986

Decision No. CU - 898

Counsel for claimant:

Manuel Zaiac, Esq.

Appeal and objections from a Proposed Decision entered January 10, 1968;  
No oral hearing requested; Hearing on the record.

Hearing on the record held on April 10, 1968.

FINAL DECISION

The Commission issued its Proposed Decision in this claim on January 10, 1968, denying the claim for the reason that claimant failed to establish ownership of rights and interests in property which was nationalized or otherwise taken by the Government of Cuba. Thereafter, claimant objected to the Proposed Decision but submitted no supporting information or evidence of probative value relating to ownership, loss and value of the property, subject of the claim.

Full consideration having been given to the objections of the claimant, and the entire record, including claimant's objections having been reviewed, and general notice of the Proposed Decision having been given by posting for 30 days, it is

ORDERED that the Proposed Decision be and the same is hereby  
entered as the Final Decision of the Commission in this claim.

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

APR 24 1968

*Leonard v. B. Sutton*

Leonard v. B. Sutton, Chairman

*Theodore Jaffe*

Theodore Jaffe, Commissioner

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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 \$450,000.00, was presented by JENNIE MAYORKAS and is based upon the asserted loss of "Lands, household goods, shares, etc." and "Interest in Estate of Harry Mayorkas". Claimant stated that she has been a national of the United States since her marriage to Harry Mayorkas on May 14, 1921.

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).)

The claimant asserted that she owned real and personal property in Cuba and inherited rights to other properties through her late husband, Harry Mayorkas, a citizen of the United States since May 22, 1918, which were nationalized or otherwise taken by the Government of Cuba. By Commission letter of June 19, 1967, claimant was advised, through counsel, as to the type of evidence proper for submission to establish this claim under the Act. Thereafter, by letter of July 20, 1967, counsel was invited to submit evidence available to him 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. No evidence of probative value was submitted in response to the correspondence of the Commission.

On September 22, 1967, the claimant submitted an affidavit dated September 22, 1967, executed by Aida Munoz, and correspondence with the Elliott Knitting Mills of North Carolina. Thereafter, in Commission correspondence of October 9, 1967, and October 24, 1967, to counsel and claimant, the

Commission made additional suggestions with respect to establishing ownership, loss and value of the properties, subject of this claim.

The claimant, through counsel, submitted additional data on the United States nationality of the Mayorkas family. However, since supporting evidence, as suggested in the Commission correspondence, had not been submitted, the Commission made additional suggestions in letters of November 14, 1967, and December 6, 1967. No additional evidence has been submitted in support of this claim.

The Commission finds that claimant has not met the burden of proof in that she 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

JAN 10 1968

*Edward D. Re*

Edward D. Re, 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).)

CU-1986