

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

IN THE MATTER OF THE CLAIM OF

LOURDES DEL CALVO HERNANDEZ

Claim No. CU -2176

Decision No. CU-5924

Under the International Claims Settlement
Act of 1949, as amended

Appeal and objections from a Proposed Decision entered on October 28, 1970.
Oral hearing requested. Claimant unable to attend.

Hearing on the record held January 22, 1971

FINAL DECISION

By its Proposed Decision, the Commission denied this claim inasmuch as the property interests subject of the claim were not owned by a national of the United States on the dates of loss as required by the Act.

Claimant objected generally to the Proposed Decision but did not specify the basis for the objection. Claimant submitted no new evidence in support of her claim since the issuance of the Proposed Decision. Claimant requested an oral hearing but was unable to attend.

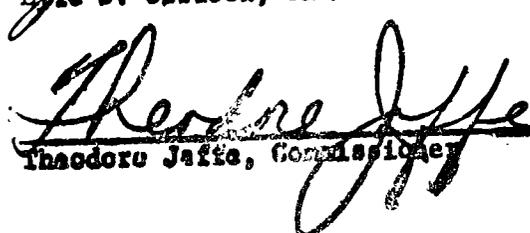
Full consideration having been given to the record, and to the objection, the Commission finds that claimant has failed to establish her claim and accordingly, it is

ORDERED that the Proposed Decision be and it is hereby affirmed as the Final Decision of the Commission in this matter.

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

FEB 3 1971


Lyle S. Garlock, Chairman


Theodore Jaffe, Commissioner

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PROPOSED DECISION

This claim against the Government of Cuba, under Title V of the International Claims Settlement Act of 1949, as amended, was presented by LOURDES DEL CALVO HERNANDEZ in the amount of \$40,090.83, and is based upon the asserted loss of an interest in certain improved real and personal property which was nationalized or otherwise taken by the Government of Cuba. Claimant has been a national of the United States since her naturalization on September 15, 1961.

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.

Section 502(1) of the Act defines the term "national of the United States" to mean "(A) a natural person who is a citizen of the United States." The term does not include aliens.

Thus, in order for the Commission to favorably consider claims under Section 503(a) of Title V of the Act, it must be established (1) that the subject property was owned in whole or in part by a national of the United States on the date of nationalization or other taking; and (2) that the claim arising as a result of such nationalization or other taking has been continuously owned thereafter in whole or in part by a national or nationals of the United States to the date of filing with the Commission.

This claim is based on the loss of a one-third interest in a house in Marianao which claimant owned jointly with her two sisters and on the loss of an interest in Compania Agricola de Guanahacabibes 1916, S.A., a Cuban corporation.

In our decision on the claim of her sister, Claim of Maria Elena del Calvo (Claim No. CU-2042 which we incorporate herein by reference), we held that the house subject of this claim was taken by the Government of Cuba on October 14, 1960 and that the Cuban corporation was taken by the Government of Cuba on July 16, 1959. In view of the foregoing the Commission finds that the property interests subject of this claim were not owned by a national of the United States on the dates of loss as required by Section 504(a) of the Act.

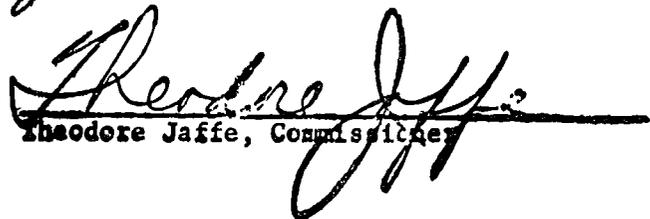
Accordingly, for the reason stated above the Commission concludes that this claim is not within the purview of Title V of the Act, supra, and it is denied. (See Claim of Sigridur Einarsdottir, Claim No. CU-0728, 25 FCSC Semiann. Rep. 45 [July-Dec. 1966].)

The Commission deems it unnecessary to make determinations with respect to other elements of this claim.

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

OCT 28 1970


Lyle S. Carlock, Chairman


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).)

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