

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

IN THE MATTER OF THE CLAIM OF

GRACIELLA D. UNANUE

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU-2327

Decision No. CU-1833

Appeal and objections from a Proposed Decision issued May 8, 1968.
No oral hearing requested; hearing on the record.

Hearing on the record held on July 24, 1968

FINAL DECISION

Under date of May 8, 1968, the Commission issued its Proposed Decision, wherein it held that this claim was not a valid claim under Title V of the Act in that it was not owned by a national of the United States on the date of filing with the Commission.

By letter dated May 17, 1968, claimant filed objections to the Proposed Decision. However, no additional evidence in support of her claim was submitted.

Claimant does not claim to have acquired United States nationality through birth or through naturalization. On the contrary, claimant states that she has merely filed a declaration of intention to become a citizen of the United States.

The Commission has reviewed and examined all of the evidence of record, and finds that the evidence of record is of insufficient probative value to warrant a different determination from that made in the Proposed Decision.

Full consideration having been given to the objections of claimant,
and the entire record having been reviewed, it is

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

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

JUL 31 1968

Leonard v. B. Sutton

Leonard v. B. Sutton, Chairman

Theodore Jaffe

Theodore Jaffe, Commissioner

Sidney Feidberg

Sidney Feidberg, Commissioner

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

IN THE MATTER OF THE CLAIM OF

GRACIELLA D. UNANUE

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU - 2327

Decision No. CU

1833

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 \$99,000.00, was presented by GRACIELLA D. UNANUE and is based upon the asserted ownership and loss of certain real and personal property.

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 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 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.

Claimant asserts that she inherited the property claimed upon the death of her husband on January 14, 1959. No evidence or statements have been submitted as to the date the property claimed was asserted to have been taken by the Cuban Government.

Claimant does not claim to have acquired United States nationality through birth or through naturalization. On the contrary, claimant states that she has merely filed a declaration of intention to become a citizen of the United States.

The Commission has considered this issue in other claims programs and has consistently held that a person who has filed a declaration of intention to become a citizen of the United States is not a national of the United States. (See Claim of Stephen H. Mayer, Claim No. W-1206, 22 FGSC Semiann. Rep. 58 (Jan.-June 1965).

Therefore, even if it were to be assumed that the property in question has been effectively taken by the Government of Cuba and that such taking occurred during the lifetime of claimant's husband, who is stated to have been an American citizen, it is clear that this claim was not owned by a national of the United States on April 27, 1967, the date on which it was filed with the Commission.

Accordingly, the Commission concludes that this claim is not valid under Title V of the Act in that it was not owned by a national of the United States on the date of filing with the Commission and, therefore, it is hereby denied.

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

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

8 MAY 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).)