

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

IN THE MATTER OF THE CLAIM OF

CYNTHIA HEATH de TRUJILLO

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU-2933

Decision No. CU 6137

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 \$137,875.00, was presented by CYNTHIA HEATH de TRUJILLO and is based upon the asserted loss of land, a house and personal property. Claimant stated that she has been a national of the United States since birth.

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 of 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) (1970).)

Claimant asserted ownership of some 21,000 varas of land, a house and personal property that was assertedly valued, at the time of loss, as \$99,000.00, \$25,000 and \$13,875, respectively.

By Commission letters of August 8, 1967 and September 22, 1967, claimant was advised, through counsel, as to the type of evidence proper for submission to establish this claim under the Act.

Evidence was submitted in support of the claim on November 6, 1967 and consists of (1) a sales agreement dated February 12, 1956 reflecting ownership in the name of claimant's husband of some 7,699.50 square varas of land; (2) an insurance policy in claimant's name, dated September 27, 1954 covering jewelry valued at \$4,000.00; (3) a shipper's invoice dated March 25, 1950 naming claimant as the shipper of household furnishings to Cuba and (4) a property settlement agreement dated May 28, 1958 between claimant and her husband which sets forth no specific property.


By letters of December 8, 1967 and April 11, 1968, the Commission reviewed the evidence submitted to date and made suggestions concerning the submission of additional supporting evidence in this matter.

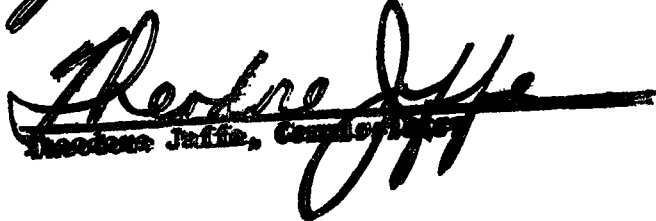
Counsel then withdrew from the matter and in letter of September 9, 1970 to claimant the Commission again reviewed the evidence submitted, making specific suggestions as to evidence. Such evidence has not been received.

The entire record having been reviewed, the Commission finds that the evidence submitted is not sufficiently probative to establish rights and interests in property which was nationalized, expropriated or otherwise taken by the Government of Cuba. The burden of proof not having been met, the Commission is constrained to deny this claim and it is hereby 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

MAR 29 1971


Lyle S. Garlock, 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 (1970).)