

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

IN THE MATTER OF THE CLAIM OF

DOLORES DEL CARMEN SEGUI

Claim No. CU-4507

Decision No. CU -6835

**Under the International Claims Settlement
Act of 1949, as amended**

Petition to reopen; Order of Dismissal dated and entered January 23, 1969.

FINAL DECISION

This claim against the Government of Cuba, opened by the Commission on behalf of the claimant, was dismissed by Order of the Commission No. CU-263 dated January 23, 1969, for the reason that claimant, upon her return from Cuba to the United States in 1968, failed to prosecute the claim.

Subsequently, claimant requested that the claim be reopened and submitted supporting evidence, including documentation showing that she has been a United States national since birth.

In her claims application, claimant listed the following asserted losses;

Chevrolet Sedan	\$ 1,600.00
Cash in Savings Accounts	8,919.33
Furniture, Fixtures and Appliances	5,720.00
Cash Surrender Value of Insurance Policy	<u>1,857.00</u>
	\$18,096.33

Upon due consideration, claimant's request for the reopening of the claim is granted, the Order of Dismissal is set aside and the following decision will be entered.

The record shows that claimant and her husband Luis Mateo Segui Santo owned jointly a 1954 Chevrolet Sedan passenger automobile, furniture, fixtures and appliances located in their home at Palma Sorano, Province of Oriente; and savings account No. 16719 with the Banco Nacional de Cuba, Santiago de Cuba branch, in the amount of \$1,329.33. Claimant had also a savings account

No. 15860 with the same bank listed in her name in the amount of \$4,341.37.

According to the community property laws of Cuba, the property acquired by one or both spouses during the marriage with money of the marriage partnership or by the industry, salary or work of either or both spouses, and the fruits thereof, belong in equal parts to both spouses (see Claim of Robert L. Cheaney et al., Claim No. CU-0915). Accordingly, the property discussed in the preceding paragraph will be deemed as having been owned by the claimant and her husband in equal shares. There is no evidence on record that claimant's husband was a national of the United States.

The Cuban Government published in its Official Gazette of December 6, 1961 Law 989 which effectively confiscated all assets, real and personal property, rights, shares of stock, bonds and other property of persons who left Cuba. The record shows that claimant and her family left Cuba for the United States on October 9, 1968, and the Commission therefore finds that the above property was taken by the Government of Cuba on October 9, 1968. (see also Claim of Wallace Tabor et al., Claim No. CU-0109, 25 FCSC Semiann. Rep. 53 [July-Dec. 1966]).

Although the claim itself was timely filed, it appears that claimant's loss did not arise until 1968, subsequent to the close of the period for filing claims of this nature against the Government of Cuba, the Commission has held that it will consider on their merits claims for losses sustained subsequent to the deadline, so long as consideration thereof does not impede the determination of claims which arose prior to the close of the filing period (see Claim of Vivian Lopez Morales, Claim No. CU-8730).

The record does not show, as already stated, that at the time of loss claimant's husband was a national of the United States. Section 504(a) of the Act provides that a claim shall not be considered under Section 503(a) 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

A claim is also asserted for the loss of savings accounts held in the name of claimant's son Luis Manuel Segui Limonta in the amount of \$1,500.68 and in the name of claimant's daughter Dolores Estela Segui Limonta in the amount of \$1,747.95. There is no evidence of record to show that claimant's son and daughter were nationals of the United States at the time of the loss.

Since the property owned by claimant's husband, son and daughter was not shown to have been owned by nationals of the United States on the date of the loss, a claim based upon property owned by them cannot be considered here, and the determination of the claim must be and will be confined to the property interest owned by the claimant.

The value of claimant's interest in the above described property remains to be determined. The Act provides in Section 503(a) that in making determinations with respect to the validity and amount of claims and value of properties, rights, or interests therein, the Commission shall take into account the basis of valuation most appropriate to the property and equitable to the claimant, including but not limited to fair market value, book value, going concern value, or cost of replacement.

On the basis of the entire record, the Commission finds that the Chevrolet passenger automobile, and the furniture, fixtures and appliances, after due allowance for depreciation, had a value of \$7,320.00, and that claimant suffered a loss in connection with her interest in this property, within the scope of Title V of the Act, in the amount of \$3,660.00.

The Commission further finds that claimant's interest in bank accounts No. 15860 and 16719 was, the Cuban peso being considered at par with the United States dollar, \$2,835.35. Thus the total loss of the claimant was \$6,495.35.

A claim is also asserted for the cash surrender value of a life insurance policy No. 1640232 issued by The American National Insurance Company of Galveston, Texas.

Evidence submitted by the claimant indicates that the policy was issued in Cuban currency and was payable in Havana, Cuba. On that basis the insurance company tendered a partial payment in United States dollars but the claimant refused to accept this tender.

The Commission finds that claimant has failed to establish that any proceeds of the policy were taken by the Government of Cuba. On the contrary the evidence shows that the insurance company recognized the validity of the policy, but that no payment was made because of a dispute which arose between the claimant and the insurance company with respect to the amount to be paid by the insurance carrier.

In view of the foregoing the claim based upon the life insurance policy must be and it is hereby denied.

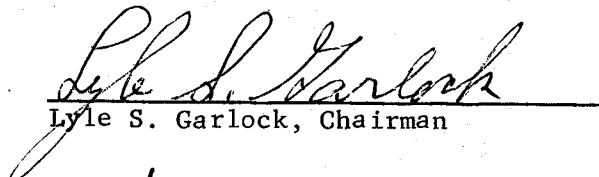
The Commission has decided that in certifications of loss claims determined pursuant to Title V of the International Claims Settlement Act of 1949, as amended, interest should be included at the rate of 6% per annum from the date of loss to the date of settlement (see Claim of Lisle Corporation, Claim No. CU-0644), and in the instant case it is so ordered.

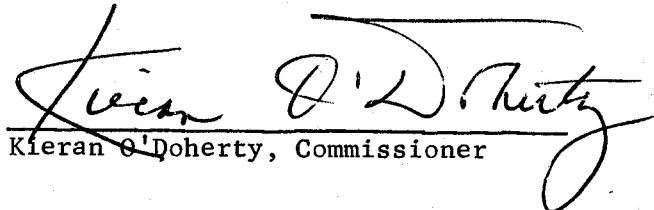
CERTIFICATION OF LOSS

The Commission certifies that DOLORES DEL CARMEN SEGUI suffered a loss, as a result of actions of the Government of Cuba, within the scope of Title V of the International Claims Settlement Act of 1949, as amended, in the amount of Six Thousand Four Hundred Ninety-Five Dollars and Thirty-Five Cents (\$6,495.35) with interest thereon at 6% per annum from October 9, 1968 to the date of settlement.

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

JUN 30 1972
FBI - NEW YORK


Lyle S. Garlock, Chairman


Kieran O'Doherty, Commissioner

The statute does not provide for the payment of claims against the Government of Cuba. Provision is only made for the determination by the Commission of the validity and amounts of such claims. Section 501 of the statute specifically precludes any authorization for appropriations for payment of these claims. The Commission is required to certify its findings to the Secretary of State for possible use in future negotiations with the Government of Cuba.