

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

IN THE MATTER OF THE CLAIM OF

JOHN KORENDA

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU -8255

Decision No. CU 3580

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 JOHN KORENDA on June 25, 1968 on behalf of the survivors of Peter Korenda, for \$100,000.00, being the amount of an admitted debt of the Republic of Cuba. Claimant and all members of the Korenda family have been nationals of the United States at all times pertinent to this claim.

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, if such claims are submitted to the Commission within such period specified by the Commission by notice published in the Federal Register (which period shall not be more than eighteen months after such publication) within sixty days after the enactment of this title or of legislation making appropriations to the Commission for payment of administrative expenses incurred in carrying out its functions under this title, whichever date is later.

On November 1, 1965, the Commission filed notice with the Federal Register that it would receive, during the period ending at midnight, May 1, 1967, claims against the Government of Cuba.

Under the Commission's regulations, any initial written indication of an intention to file a claim received within 30 days prior to the expiration of the filing period thereof shall be considered as a timely filing of a claim if formalized within 30 days after the expiration of the filing period. (FCSC Reg., 45 C.F.R. §531.1(g) (Supp. 1967).)

This claim was presented to the Commission on June 25, 1968. There is no record of a prior communication to this Commission from claimant herein.

The first question for consideration is whether the Commission may properly consider this claim on its merits inasmuch as it was presented subsequent to the closing of the formal filing period.

Claimant, JOHN KORENDA, acting on behalf of the interested members of the Korenda family, that is, the survivors of Peter Korenda, and of Anna Korenda, both now deceased, has informed the Commission that he is a merchant seaman, and that in the course of following this occupation he received no notice of the inauguration of this claims program, nor of the filing period.

The declared purpose of the Congress in enacting this legislation was to provide a vehicle for American nationals to have the validity and amounts of their losses decided by the Commission and reported to the Secretary of State for possible use in future negotiations of a claims settlement agreement with a friendly Government in Cuba.

In view of this purpose, the Commission holds that it will accept for consideration on their merits claims filed after the deadline so long as the consideration thereof does not impede the determination of those claims which were timely filed. The Commission further holds that the losses determined in the claims filed after the deadline shall be separately certified to the Secretary of State.

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.

Evidence of record in this case discloses that one Peter Korenda, an American tourist in Habana, was shot and killed on March 13, 1957, by Cuban authorities who were at that time suppressing an attack of insurrectionists upon the Presidential Palace at Habana.

The claim was first presented to the Government of Cuba by the American Embassy at Habana on behalf of Mrs. Anna Korenda, mother of Peter Korenda, for damages sustained as a result of the death of her son. The Cuban Ministry of State acknowledged the receipt of the claim on June 11, 1958. On September 7, 1959, discussions were held in Habana between an Embassy official, a representative of the Cuban Government and JOHN KORENDA, acting for himself and other members of the Korenda family (Mrs. Korenda being then deceased). During these discussions the Cuban Government admitted its liability in the matter and offered to pay Mr. Korenda \$100,000 in full settlement of the claim. Mr. Korenda accepted the offer and agreed to be paid in two equal installments, the first of which was to be made on October 9, 1959. He returned to Cuba on that date, with appropriate powers of attorney and other documentation to effect collection of the first installment. An appointment for October 10, 1959 was not kept by Cuban authorities. It has been said that the failure to make payment was due to a stringency in the Cuban Government's dollar exchange position at that time. All attempts to effect collection of the debt have been unsuccessful.

The Commission has carefully considered all the evidence of record and finds that inasmuch as this debt of the Government of Cuba has not been paid claimant has succeeded to and suffered a loss within the scope of Title V of the Act, in the amount of \$100,000 as of October 10, 1959. (See Claim of Clemens R. Maise, Claim No. CU-3191, 1967 FCSC Ann. Rep. 68.)

The Commission has decided that in certification of losses on 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 JOHN KORENDA succeeded to and 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 One Hundred Thousand Dollars (\$100,000.00) with interest thereon at 6% per annum from October 10, 1959 to the date of settlement.

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

MAR 26 1969

Leonard v. B. Sutton

Leonard v. B. Sutton, Chairman

Theodore Jaffe

Theodore Jaffe, Commissioner

Sidney Freidberg

Sidney Freidberg, 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.

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).)