

FOREIGN CLAIMS SETTLEMENT COMMISSION  
OF THE UNITED STATES  
UNITED STATES DEPARTMENT OF JUSTICE  
WASHINGTON, DC 20579

In the Matter of the Claim of

ESTATE OF CONSORCIA RODRIGUEZ ACOSTA,  
DECEASED; ISMAEL NEGRON RODRIGUEZ,  
ADMINISTRATOR

Against the Great Socialist People's  
Libyan Arab Jamahiriya

}  
}  
}  
}  
}  
} Claim No. LIB-II-075

} Decision No. LIB-II-056

Counsel for Claimant:

Joshua Ambush, Esq.  
Joshua M. Ambush, LLC

PROPOSED DECISION

This claim against the Great Socialist People's Libyan Arab Jamahiriya ("Libya") is brought by the Estate of Consorcia Rodriguez Acosta (the "claimant"), based upon the death of Consorcia Rodriguez Acosta as a result of the terrorist incident at Lod Airport in Israel on May 30, 1972.

Under subsection 4(a) of Title I of the International Claims Settlement Act of 1949 ("ICSA"), as amended, the Commission has jurisdiction to

receive, examine, adjudicate, and render a final decision with respect to any claim of . . . any national of the United States . . . included in a category of claims against a foreign government which is referred to the Commission by the Secretary of State.

22 U.S.C. § 1623(a)(1)(C) (2006).

On January 15, 2009, pursuant to a delegation of authority from the Secretary of State, the State Department's Legal Adviser referred to the Commission for

adjudication six categories of claims of U.S. nationals against Libya. *Letter dated January 15, 2009, from the Honorable John B. Bellinger, III, Legal Adviser, Department of State, to the Honorable Mauricio J. Tamargo, Chairman, Foreign Claims Settlement Commission* (“January Referral Letter”).

The present claim is made under Category E. According to the January Referral Letter, Category E consists of

claims of U.S. nationals for wrongful death or physical injury resulting from one of the terrorist incidents listed in Attachment 2 (“Covered Incidents”), incidents which formed the basis for Pending Litigation in which a named U.S. plaintiff alleged wrongful death or physical injury, provided that (1) the claimant was not a plaintiff in the Pending Litigation; and (2) the claim meets the standard for physical injury or wrongful death, as appropriate, adopted by the Commission.

*Id.* at ¶ 7. Attachment 1 to the January Referral Letter lists the suits comprising the Pending Litigation and Attachment 2 lists the Covered Incidents.

---

The January Referral Letter, as well as a December 11, 2008 referral letter (“December Referral Letter”) from the State Department, followed a number of official actions that were taken with respect to the settlement of claims between the United States and Libya. Specifically, on August 4, 2008, the President signed into law the Libyan Claims Resolution Act (“LCRA”), Pub. L. No. 110-301, 122 Stat. 2999, and on August 14, 2008, the United States and Libya concluded the *Claims Settlement Agreement Between the United States of America and the Great Socialist People's Libyan Arab Jamahiriya* (“Claims Settlement Agreement”), 2008 U.S.T. Lexis 72, entered into force Aug. 14, 2008. On October 31, 2008, the President issued Executive Order No. 13,477, 73 Fed. Reg. 65,965 (Nov. 5, 2008), which, *inter alia*, espoused the

claims of U.S. nationals coming within the terms of the Claims Settlement Agreement, barred U.S. nationals from asserting or maintaining such claims, terminated any pending suit within the terms of the Claims Settlement Agreement, and directed the Secretary of State to establish procedures governing claims by U.S. nationals falling within the terms of the Claims Settlement Agreement.

On July 7, 2009, the Commission published notice in the *Federal Register* announcing the commencement of this portion of the Libya Claims Program pursuant to the ICSA and the January Referral Letter. *Notice of Commencement of Claims Adjudication Program*, 74 Fed. Reg. 32,193 (2009).

#### BASIS OF THE PRESENT CLAIM

On March 24, 2010, the Commission received from the claimant a Statement of Claim in which the claimant asserts a claim under Category E of the January Referral Letter, along with accompanying exhibits supporting the elements of its claim. This submission included: evidence of the U.S. nationality of Consorcia Rodriguez Acosta and that of the heirs of her estate; a copy of the "Report of the Death of an American Citizen" issued by the Department of State on July 6, 1972 reflecting the date and place of Ms. Acosta's death; and evidence establishing her presence at the terrorist incident at Lod Airport in Israel on May 30, 1972. The claimant asserts that Ms. Acosta was killed during the Lod Airport attack.

#### DISCUSSION

As an initial matter, the Commission notes that the Resolution issued by the Commonwealth of Puerto Rico, General Court of Justice, Superior Court of San Juan, dated September 1, 2010, appointed Ismael Negron Rodriguez as the Judicial

Administrator of Ms. Acosta's estate. Accordingly, the Commission finds that the ESTATE OF CONSORCIA RODRIGUEZ ACOSTA, DECEASED; ISMAEL NEGRON RODRIGUEZ, ADMINISTRATOR, is the proper claimant in this claim.

Jurisdiction

Under subsection 4(a) of the ICSA, the Commission's jurisdiction here is limited to the category of claims defined under the January Referral Letter; namely, claims of individuals who: (1) are U.S. nationals; (2) set forth a claim before the Commission for wrongful death or physical injury resulting from one of the Covered Incidents; and (3) were not plaintiffs in a Pending Litigation case against Libya. January Referral Letter, *supra* ¶ 7.

*Nationality*

In the *Claim of* 5 U.S.C. §552(b)(6) Claim No. LIB-I-001, Decision No. LIB-I-001 (2009), the Commission held, consistent with its past jurisprudence and generally-accepted principles of international law, that to meet the nationality requirement, the claimant must have been a national of the United States, as that term is defined in the Commission's authorizing statute, continuously from the date the claim arose until the date of the Claims Settlement Agreement. In the case of claims brought by estates on behalf of beneficiaries, it is a well-established principle of the law of international claims, which has been applied by both this Commission and its predecessors (the War Claims Commission and the International Claims Commission) that the nationality of the injured party as well as the beneficiaries of his or her estate must be evaluated for

purposes of determining the nationality of a claim.<sup>1</sup> Based on this precedent and its review of the Declaration of Heirs issued by the Commonwealth of Puerto Rico, Court of First Instance, Division of San Juan, on November 18, 2009, submitted by claimant, the Commission determines that during the pertinent time period an interest in this claim has been held by the following: Consorcia Rodriguez Acosta, Joaquín Negrón Rodríguez, Ana María Negrón Rodríguez, Candida Rosa Negrón Rodríguez, Ismael Negrón Rodríguez, Carmen Alicia Negrón Rodríguez, Felipe Negrón Rodríguez, Otilio Negrón Rodríguez and David Negrón Rodríguez.

To meet the nationality requirement, the claimant has provided the following: a copy of the 1972 U.S. passport of the late Consorcia Rodriguez Acosta; and copies of the birth certificates and current passports of Joaquín Negrón Rodríguez, Ana María Negrón Rodríguez, Candida Rosa Negrón Rodríguez, Ismael Negrón Rodríguez, Carmen Alicia Negrón Rodríguez, Felipe Negrón Rodríguez, Otilio Negrón Rodríguez and David Negrón Rodríguez. Based on this evidence and other evidence in the record, the Commission determines that the claim was owned by a U.S. national at the time of the incident continuously through the effective date of the Claims Settlement Agreement.

*Claim for Death or Injury Resulting From a Covered Incident*

To fall within the category of claims referred to the Commission, the claimant must assert a claim for wrongful death or physical injury resulting from one of the

---

<sup>1</sup> See, e.g., *Claim of THE ESTATE OF JOSEPH KREN, DECEASED, against Yugoslavia*, Claim No. Y-0660, Decision No. Y-1171 (1954); *Claim of PETER KERNAST*, Claim No. W-9801, Decision No. W-2107 (1965); *Claim of RALPH F. GASSMAN and URSULA ZANDMER against the German Democratic Republic*, Claim No. G-2154, Decision No. G-1955 (1981); *Claim of ELISAVETA BELLO, et. al. against Albania*, Claim No. ALB-338, Decision No. ALB-321 (2008).

Covered Incidents listed in Attachment 2 to the January Referral Letter. January Referral Letter, *supra*, ¶ 7. This list includes the “May 30, 1972 attack at Lod Airport in Israel, as alleged in *Franqui v. Syrian Arab Republic, et al.* (D.D.C.) 06-cv-734.” *Id.*, Attachment 2, ¶ 1. In its Statement of Claim, the claimant sets forth a claim for wrongful death based on the death of Ms. Acosta during this terrorist attack. Accordingly, the Commission finds that the claimant has satisfied this element of its claim.

#### *Pending Litigation*

Finally, the January Referral Letter states that the claimant may not have been a plaintiff in the Pending Litigation. January Referral Letter, *supra*, ¶ 7. Attachment 2 to the January Referral Letter identifies the Pending Litigation cases associated with each Covered Incident, which in this claim, as noted above, is the *Franqui* case. Claimant has provided a copy of the First Amended Complaint in *Franqui*, which demonstrates that neither the claimant estate, nor any of the beneficiaries, were plaintiffs in the Pending Litigation. Based on this evidence, the Commission finds that the claimant has satisfied this element of its claim.

In summary the Commission concludes, on the basis of the foregoing, that this claim is within the Commission’s jurisdiction pursuant to the January Referral Letter and is entitled to adjudication on the merits.

#### Merits

##### *Standard for Wrongful Death*

As stated in the January Referral Letter, to be eligible for compensation, a claimant asserting a claim under Category E must meet “the standard for physical injury

or wrongful death, as appropriate, adopted by the Commission” for purposes of this referral. January Referral Letter, *supra*, ¶ 7. The Commission held in *Claim of ESTATE OF VIRGEN MILAGROS FLORES, DECEASED; CRUCITA FLORES SUÁREZ, PERSONAL REPRESENTATIVE*, Claim No. LIB-II-065, Dec. No. LIB-II-043 (2011), that in order for a claim for wrongful death pursuant to Category E to be considered compensable, a claimant must:

- 1) provide evidence sufficient to establish the fact of death in the form of a death certificate or other similar document; and
- 2) provide evidence sufficient to establish that the decedent died as the proximate result of a Covered Incident.

*Id.* at 12. The present Category E claim must likewise meet this standard to be compensable.

---

#### *Wrongful Death*

According to the Statement of Claim, the claimant’s decedent, Consorcia Rodriguez Acosta, died as a result of the injuries she sustained on May 30, 1972 at the Lod Airport in Israel. In support of its claim, the claimant has provided a copy of the “Report of the Death of an American Citizen” issued by the Department of State on July 6, 1972, which confirms that Ms. Acosta died at Lod Airport on the date of the incident. The report also cites an Israeli death certificate issued for Ms. Acosta on June 2, 1972, which also states Ms. Acosta died at Lod Airport on the date of the incident, and that her remains were repatriated to Puerto Rico on June 4, 1972. In addition to the aforementioned official reports, claimant has also submitted numerous newspaper reports from the days following the incident; a copy of a Puerto Rican Senate resolution

from June 2009, commemorating the Lod Airport massacre; and a photograph of a memorial marker in Israel dedicated to the memory of the Lod Airport victims, each of which specifically identify Ms. Acosta as one of the fatalities in the attack along with several letters of condolence received by Ms. Acosta's family.

Based on the evidence submitted, the Commission finds that the claimant's decedent's death meets the standard for wrongful death set forth above. Accordingly, claimant ESTATE OF CONSORCIA RODRIGUEZ ACOSTA, DECEASED; ISMAEL NEGRON RODRIGUEZ, ADMINISTRATOR is entitled to compensation in this claim.

#### COMPENSATION

In the *FLORES* claim, the Commission held that, in this program, \$10 million is an appropriate amount of compensation for claims of wrongful death that meet the Commission's standard under Category E, and that interest is not to be applied. Accordingly, the Commission determines that the claimant, ESTATE OF CONSORCIA RODRIGUEZ ACOSTA, DECEASED; ISMAEL NEGRON RODRIGUEZ, ADMINISTRATOR, is entitled herein to an award of \$10,000,000.00 and that this amount constitutes the entirety of the compensation that the claimant is entitled to in the present claim.


The Commission therefore enters the following award, which will be certified to the Secretary of Treasury for payment under sections 7 and 8 of the ICSEA. 22 U.S.C. §§ 1626-27 (2006).

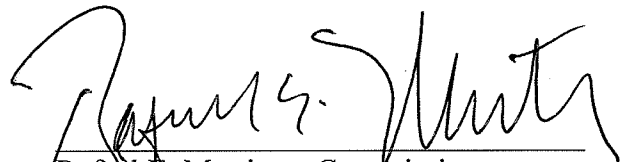


AWARD

Claimant ESTATE OF CONSORCIA RODRIGUEZ ACOSTA, DECEASED;  
ISMAEL NEGRON RODRIGUEZ, ADMINISTRATOR, is entitled to an award in the  
amount of Ten Million Dollars (\$10,000,000.00).

Dated at Washington, DC, July 12, 2011  
and entered as the Proposed Decision  
of the Commission.

  
\_\_\_\_\_  
Timothy J. Feighery, Chairman

  
\_\_\_\_\_  
Rafael E. Martinez, Commissioner

---

**This decision was entered as the  
Commission's Final Decision on**  
AUG 18 2011

NOTICE: Pursuant to the Regulations of the Commission, any objections must be filed within 15 days after service or receipt of notice of this Proposed Decision. Absent objection, this 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 Regulations, 45 C.F.R. § 509.5 (e), (g) (2010).