

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

IN THE MATTER OF THE CLAIM OF

BESSIE S. AMON-WILKINS
JUAN AMON-WILKINS
BASHA BELLA W. MORROS

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU-0775
Claim No. CU-8138

Decision No. CU
5934

PROPOSED DECISION

These claims against the Government of Cuba, under Title V of the International Claims Settlement Act of 1949, as amended, were presented by the above claimants, in the total amount of \$1,029,100.00, based upon the asserted ownership and loss of real and personal property in Cuba.

Claimants BESSIE S. AMON-WILKINS and BASHA BELLA W. MORROS have been nationals of the United States at all times pertinent to their respective claims. However, claimant JUAN AMON-WILKINS acquired nationality of the United States on July 7, 1967.

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 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) (1969).)

Claimants BESSIE S. AMON-WILKINS and JUAN AMON-WILKINS have asserted that they jointly owned extensive real and personal property, including the Hacienda San Rafael de la Cuba, Santa Fe, Isle of Pines, Cuba, with health resort and several buildings; two town lots; a mortgage interest in land; other tracts of land, with improvements, fruit and palm trees, timber, pasture; as well as personal property, such as farming equipment, vehicles, bank accounts, house furnishings and other personalty.

Claimant BASHA BELLA W. MORROS stated that she owned a tract of land in the Barrio of Santa Fe, Isle of Pines, Cuba, which was ". . . repurchased by my father in my name, to be held in trust for four children of our parents".

In support of their claims, the claimants have submitted recapitulations of the properties included in their claims. The record also includes a listing submitted to the American Embassy in Havana in June 1961. Additionally, claimants have submitted copies of several documents in the Spanish language which are incomplete, indicating in some instances the

names of parties to contracts, agreements or other documents, but giving no pertinent details as to the property involved therein, if any, ownership of such property, loss thereof or value on the asserted date or dates of loss of such property.

In 1966 and 1967 the Commission sent several letters to the former attorney of the claimants and to the claimants wherein they were advised as to the type of evidence proper for submission to establish their respective claims under the provisions of the Act. Thereafter, the Commission made additional suggestions to claimants in Commission letters of January 29, 1968, April 4, 1968, April 24, 1968, July 20, 1970 and July 28, 1970, with respect to the submission of evidence pertaining to ownership, loss and value of the subject properties. While the claimants have responded in part to the Commission correspondence, they have not submitted evidence of probative value which would establish their claims under the provisions of Title V of the Act.

The Commission has attempted to obtain evidence on behalf of the claimants, but none has been received nor is there any certainty that such will be forthcoming.

It appears from the record that claimant JUAN AMON-WILKINS, stated to be the owner in whole or in part of interests in the aforesaid property, was naturalized in 1932, but that his naturalization was cancelled in 1946. Therefore, it appears he was not a national of the United States at the time of the asserted loss of the property, stated to be in 1960 or 1961. In order for the Commission to favorably consider a claim filed under 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 claim with this Commission. (See the Claim of Joseph Dallos Hullo, Claim No. CU-0101, 25 FCSC Semiann. Rep. 46 [July-Dec. 1966].)

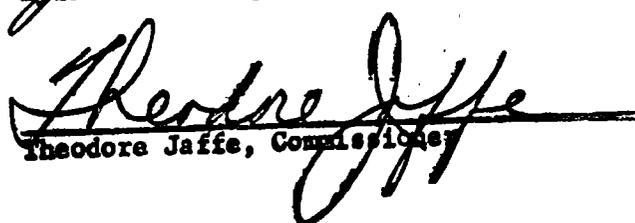
Thus, the Commission would be constrained to deny the claim of JUAN AMON-WILKINS on this ground in any event, and it is so denied.

The Commission appreciates the difficulties encountered by the claimants in establishing their claims against the Government of Cuba. However, the Commission must be guided by the evidence of record pertaining to the ownership, loss and value of the property included in each claim. The Commission is also constrained to find that claimants herein have not met the burden of proof in that they have failed to establish the ownership and value of rights and interests in property which was nationalized, expropriated or otherwise taken by the Government of Cuba. Accordingly, these claims are hereby denied for the reasons stated. The Commission deems it unnecessary to make determinations with respect to other elements of these claims.

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

NOV 4 1970


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, 32 Fed. Reg. 412-13 (1967).)

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