

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

IN THE MATTER OF THE CLAIM OF

CRISTOBAL AYALA DIAZ  
MARIA AYALA DIAZ

Claim No. CU-1558

Decision No. CU -238

Under the International Claims Settlement  
Act of 1949, as amended

Appeal and objections from a Proposed Decision entered September 6, 1967.  
No oral hearing requested; Hearing on the record,

Hearing on the record held on October 18, 1967.

FINAL DECISION

The Commission issued its Proposed Decision in this claim on September 6, 1967, denying this claim for the reason that claimants had failed to establish either ownership of property lost in Cuba, or that it was owned by nationals of the United States at the time of nationalization, intervention or other taking by the Government of Cuba.

Claimants objected to the Proposed Decision, contending that their loss actually occurred on September 16, 1965, the date on which they acquired United States nationality. However, claimants have not submitted any evidence to establish that the claimed property was taken by the Government of Cuba, subsequent to September 16, 1965, the date on which claimants acquired United States nationality.

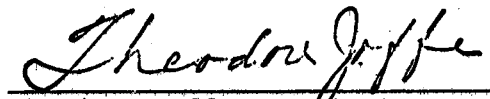
Full consideration having been given to the objections of the claimants, and the entire record, including claimants' objections, having been reviewed, and general notice of the Proposed Decision having been given by posting for 30 days, it is

ORDERED that the Proposed Decision be and the same is hereby entered as the Final Decision of the Commission in this claim.

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

**OCT 25 1967**

  
Edward D. Re, Chairman

  
Theodore Jaffe, Commissioner

  
LaVern R. Dilweg, Commissioner

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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 CRISTOBAL AYALA DIAZ and MARIA AYALO DIAZ, husband and wife, in the amount of \$132,250.00, and is based upon the asserted loss of certain improved real and personal property which was nationalized or otherwise taken by the Government of Cuba. Claimants state that they have been nationals of the United States since their naturalization on September 16, 1965.

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 interest 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.

Section 502(1) of the Act defines the term "national of the United States" to mean "(A) a natural person who is a citizen of the United States." The term does not include aliens.

Thus, in order for the Commission to favorably consider claims under Section 503(a) of 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 with the Commission.

In their claim form, filed on April 17, 1967, claimants state that they owned a certain unimproved and improved real property, located in Havana, Cuba; that they were the sole owners of certain personal property consisting of furniture and an automobile; and also were the owners of stock interests, bonds, and other investments in Cuba. Claimants further assert that the "Claim arose in early 1961." Claimants state that they did not acquire United States nationality until September 16, 1965.

Under the provisions of Sections 502(3), 503(a) and 504(a) of the Act, supra, not only should the claimants herein establish that they were the owners of interests in property, subject of their claim, but they must also establish that some measure depriving them of their interests therein was

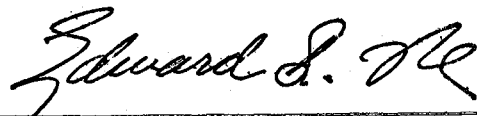
applied by the Government of Cuba not only after January 1, 1959, but subsequent to September 16, 1965, the date on which they acquired citizenship of the United States. This they have not done.

On the basis of the existing record, the Commission finds that claimants have failed to establish that the properties subject of this claim were owned by nationals of the United States on the date or dates of loss, a requirement of Section 504(a) of the Act.

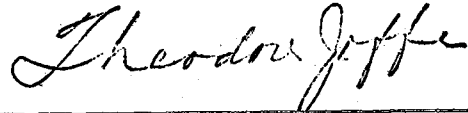
Accordingly, for the reasons stated above, the Commission concludes that this claim is not one within the purview of Title V of the Act, supra, and it is denied. The Commission deems it unnecessary to make specific findings with respect to other elements of this claim.

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

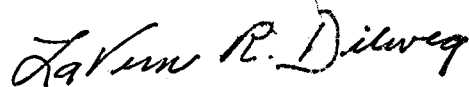
**SEP 6 1967**



Edward D. Re, Chairman



Theodore Jaffe, Commissioner



LaVern R. Dilweg, 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).)

CU-1558