

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

IN THE MATTER OF THE CLAIM OF

MARY GREEVY GARCIA

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU -2041

Decision No. CU-909

Counsel for claimant:

Bigham, Englar, Jones & Houston
By Theodore R. Guittari, Esq.

AMENDED PROPOSED DECISION

By Proposed Decision dated January 3, 1968, the Commission denied this claim for failure to sustain the burden of proof. Since then claimant has submitted additional substantiating evidence. The matter having been considered, it is

ORDERED that the Proposed Decision be and it is hereby amended.

The Commission now finds that claimant was the owner of various items of personal property, specifically clothing, generally suited to a person of her status in Cuba, and moreover, attested to by persons familiar with claimant and her residence in Cuba.

On December 6, 1961, the Cuban Government published in its Official Gazette its Law 989, which confiscated all assets, personal property and other rights of persons who had left the country.

As the record shows, claimant left Cuba in May, 1961. The Commission therefore finds that the subject personal property was taken by the Government of Cuba on December 6, 1961 pursuant to the provisions of Law 989.

The Commission has considered the list of items submitted by claimant, her statement that they were acquired over the years she resided in Cuba, and with appropriate adjustments in some instances, and after allowing for depreciation, the Commission finds that the said personalty had a value of \$1,928.50 on the date of loss, and concludes that claimant suffered a loss in that amount within the meaning of Title V of the Act.

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.

Accordingly, the following certification of loss will be entered, and in all other respects, the Proposed Decision is affirmed.

CERTIFICATION OF LOSS

The Commission certifies that MARY GREEVY GARCIA 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 Thousand Nine Hundred Twenty-eight Dollars and Fifty Cents (\$1,928.50) with interest thereon at 6% per annum from December 6, 1961 to the date of settlement.

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

FEB 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 Amended 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).)

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

IN THE MATTER OF THE CLAIM OF

MARY GREEVY GARCIA

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU -2041

Decision No. CU 909

Counsel for claimant:

Bigham, Englar, Jones & Houston

PROPOSED DECISION

This claim against the Government of Cuba, filed under Title V of the International Claims Settlement Act of 1949, as amended, in the amount of \$2,160.00, was presented by MARY GREEVY GARCIA and is based upon the asserted loss of personalty in Cuba. Claimant has been a national of the United States since her birth in the United States.

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) (Supp. 1967).)

Claimant has failed to submit evidence in support of her claim.

By Commission letter of July 10, 1967, claimant was advised, through counsel, as to the type of evidence proper for submission to establish this claim under the Act. Claimant thereafter submitted a copy of her birth certificate and an itemized list of the personal property claimed and requested an extension of time in which to submit the balance. However, no additional evidence was received.

On September 27, 1967, counsel was invited to submit any evidence available to him within 45 days from that date, and he was informed, that, absent such evidence, it might become necessary to determine the claim on the basis of the existing record. An additional 15 days was given to the claimant by the Commission letter of November 29, 1967, and the suggested evidence was once again outlined. However, no evidence or correspondence has since been received.

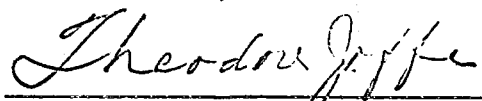
The Commission finds that claimant has not met the burden of proof in that she has failed to establish ownership of rights and interests in property which was nationalized, expropriated or otherwise taken by the Government of Cuba. Thus, the Commission is constrained to deny this claim and it is hereby denied. The Commission deems it unnecessary to make determinations with respect to other elements of the claim.

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

8 JAN 1968



Edward D. Re, Chairman



Theodore Jaffe, Commissioner

RECEIVED
This is a true and correct copy of the decision
of the Commission which was entered as the final
decision on _____

Francis M. ...
Clerk of the Commission

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).)