

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

IN THE MATTER OF THE CLAIM OF

ESTATE OF JOSE FRANCISCO ZARAGOZA,
DECEASED

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU-2322

Decision No. CU 202

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 Mrs. Esther P. Vda. Zaragoza, widow of JOSE FRANCISCO ZARAGOZA, for an unknown amount, based upon the asserted ownership and loss of personalty. JOSE FRANCISCO ZARAGOZA is said to have been a national of the United States since his naturalization in 1917. The date of his death is not stated; however, the record indicates that it was prior to the date on which the claim was filed.

Under Title V of the International Claims Settlement Act of 1949 /78 Stat. 1110 (1964), 22 U.S.C. 81643-1643k (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.

The claim is based on various items deposited in a private depository in Havana, Cuba on August 4, 1961, including certain jewelry and cash. The record includes a deposit receipt and inventory of the items.

However, the property was placed in the custody of a private depository as distinguished from a deposit made in a bank existing under and subject to the laws of the Government of Cuba.

There is no evidence of record that this property has been taken by the Government of Cuba nor has any Cuban law been cited as affecting this property. It is clear, therefore, that the record in this case does not establish that the property upon which this claim is based has been nationalized, expropriated, intervened or taken by the Government of Cuba.

There appears to be another reason why this claim is not valid under Title V of the International Claims Settlement Act of 1949.

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.

According to Mrs. Zaragoza's statements she is not a national of the United States. Therefore, even if it were to be assumed that the subject personalty has been effectively taken by the Government of Cuba and that such taking occurred during the lifetime of her husband, her predecessor in interest, who is stated to have been an American citizen, it is clear that this claim was not owned by a national of the United States on April 27, 1967, the date on which it was filed with the Commission.

Accordingly, the Commission concludes that this claim is not valid under Title V of the Act in that the record does not establish that the subject property has been nationalized, expropriated, intervened or taken by the Government of Cuba and because the claim was not owned by a national of the United States on the date of filing with the Commission and, therefore, it is hereby 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.

AUG 23 1967

Edward D. Re

Edward D. Re, Chairman

This is a true and correct copy of the decision
the Commission entered as the final
decision on — 25 SEP 1967

Theodore Jaffe

Theodore Jaffe, Commissioner

Francis MacKinnon
Clerk of the Commission

LaVern R. Dilweg

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).)

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