

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

IN THE MATTER OF THE CLAIM OF

SERGIO D. BRULL

Claim No. CU-2343

Decision No. CU-1915

Under the International Claims Settlement  
Act of 1949, as amended

Counsel for claimant:

Rufus King, Esq.

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Appeal and objections from a Proposed Decision entered on May 22, 1968. No oral hearing requested.

Hearing on the record held on May 19, 1971

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FINAL DECISION

On May 22, 1968 the Commission issued a Proposed Decision denying this claim for failure of proof. The claim was based on real and personal property, and the asserted wrongful death of claimant's mother.

Counsel requested that the Final Decision be held in abeyance to secure missing evidence relating to parcels of the real property subject of this claim.

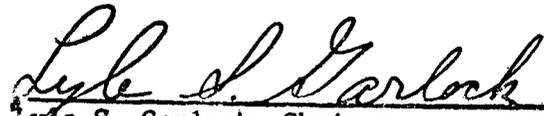
Subsequently reports from abroad were received which failed to establish claimant's interest in any of the real or personal property subject of this claim. Counsel was advised of this, and of the Cuban law which provides that an individual may not be presumed dead until 30 years after disappearing or at age 90. He was also asked to inform the Commission whether claimant desired an oral hearing or to have the matter heard on the record. No reply to this letter or to a follow-up letter dated February 2, 1970 has been received.

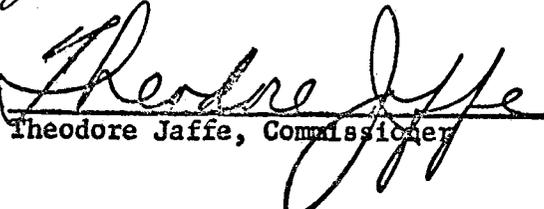
The Commission, having considered the entire record, finds that claimant has been a national of the United States since his naturalization in 1952, but finds that there is no evidence of record to establish the death or manner of death of claimant's mother, or that claimant owned an interest in the real and personal property subject of this claim.

Accordingly, the Commission is constrained to affirm the denial of this claim for lack of proof, and it is so affirmed.

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

JUN 2 1971

  
Lyle S. Garlock, Chairman

  
Theodore Jaffe, Commissioner

FOREIGN CLAIMS SETTLEMENT COMMISSION  
OF THE UNITED STATES  
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IN THE MATTER OF THE CLAIM OF

SERGIO D. BRULL

Under the International Claims Settlement  
Act of 1949, as amended

Claim No. CU-2343

Decision No. CU - 1915

Counsel for claimant:

Rufus King, Esq.

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 \$275,000.00, was presented by SERGIO D. BRULL, and is based on his asserted ownership and loss of interests in certain real and personal property in Cuba, and the wrongful death of his mother. Claimant states that he has been a national of the United States since his naturalization on June 10, 1952.

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 asserts this claim on the basis of his interest in real estate and personal property which, he asserts, was acquired by inheritance from his mother, Ophelia Alicia Brull, who he believes died in Cuba in 1961. Claimant also asserts a loss based upon the wrongful death of his mother, however, no evidence has been submitted to establish the date, place, or manner of his mother's asserted death. The only documents submitted in support of this claim are several affidavits which recite that claimant's mother owned certain property in Cuba and that she disappeared in Cuba in June, 1961, and that affiants believe she is deceased. Claimant states that his mother acquired United States nationality by naturalization and that he is her only son and only surviving heir.

By Commission letter of June 28, 1967, claimant was advised, through counsel, of the type of evidence proper for submission to establish this claim under the Act. Counsel subsequently submitted the affidavits described above; however, no evidence of probative value has been submitted to establish the time, place, and manner of Ophelia Alicia Brull's death. By Commission letter of April 19, 1968,

claimant was advised, through counsel, of the absence of evidence in the record establishing that his mother is deceased and that he has an interest in her estate, whatever its extent. He was advised that claimant has the burden of proof on all issues involved in the determination of a claim. No evidence has since been submitted.

The Commission finds that claimant has not met the burden of proof in that he has failed to establish ownership, by a national or nationals of the United States, of rights and interests in property which was nationalized, expropriated or otherwise taken by the Government of Cuba. Accordingly, this claim is 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

**MAY 22 1968**

*Leonard v. B. Sutton*

Leonard v. B. Sutton, Chairman

*Theodore Jaffe*

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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