

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

IN THE MATTER OF THE CLAIM OF

ZOILA MONTERO

Claim No. CU - 2661

Decision No. CU 1393

Under the International Claims Settlement  
Act of 1949, as amended

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 \$18,500.00, was presented by ZOILA MONTERO and is based upon the asserted loss of certain lots, a house, bank account and an insurance policy. Claimant has been a national of the United States since her naturalization as a citizen of the United States on December 18, 1961.

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).)

Other than her own statements, claimant has submitted no evidence in support of this claim. By Commission letter of August 22, 1967, claimant was advised as to the type of evidence proper for submission to establish this claim under the Act. On October 3, 1967, the Commission reminded claimant of its previous request, and advised her that absent receipt of evidence suggested therein within 45 days, it might become necessary to determine the claim on the basis of the existing record. Other than claimant's own statements, however, no evidence in response to this correspondence has been received to date.

By letters of December 26, 1967 and January 23, 1968, the Commission made additional suggestions concerning the submission of supporting evidence in this matter. Claimant was advised to submit any additional evidence available to her within 20 days of the latter date, and she was informed that a recommendation on this claim would be made in the near future. Other than claimant's own statements, no evidence has since been submitted.

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 subsequent to December 18, 1961, the date she became a national of the United States. 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

**FEB 28 1968**

*Edward S. Jaffe*  
Edward S. Jaffe, Chairman  
*Theodore Jaffe*  
Theodore Jaffe, Commissioner

**CERTIFICATION**  
This is a true and correct copy of the decision  
of the Commission which was entered as the final  
decision on **MAY 29 1968**  
*Francis Hartman*  
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).)