

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

IN THE MATTER OF THE CLAIM OF

WALDEMAR C. JOHNSON

Claim No. CU -3193

Decision No. CU -4643

Under the International Claims Settlement  
Act of 1949, as amended

Appeal and objections from a Proposed Decision entered March 18, 1970, no hearing requested.

Hearing on the record held on **AUG 18 1971**

FINAL DECISION

The Commission issued its Proposed Decision in this matter on March 18, 1970 denying the claim for failure to establish that it came within the scope of Title V of the Act inasmuch as it appears that the property assertedly inherited by claimant from his mother was not shown to have been taken subsequent to her death as a non-United States national on April 10, 1962.

Claimant objected, contending he cannot obtain needed evidence. Full consideration having been given to the record in this claim and in the claim of claimant's brother Harry A. Johnson (Claim No. CU-3041), the Commission finds no valid basis for altering the decision on this claim, and the Proposed Decision is affirmed in all respects.

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

**AUG 25 1971**

  
Lyle S. Garlock, Chairman

  
Theodore Jaffe, Commissioner

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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 \$200,000.00, was presented by WALDEMAR C. JOHNSON and is based upon the asserted loss of real and personal property in Cuba. Claimant, WALDEMAR C. JOHNSON, has been a national of the United States since his naturalization on June 26, 1940.

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).)

It is asserted by the claimant that in or about 1953 his late mother, Bertha Charlotte Johnson, had certain property "legally turned over" to her three heirs, the claimant being one. It is further stated by the claimant that the deeds, tax receipts and all papers pertaining to this property were left in a safe deposit box in the Isle of Pines, Cuba.

The statement, made by claimant's brother, Harry Arthur Johnson, in his claim, Claim No. CU-3041, which is hereby incorporated by reference, shows that Bertha Charlotte Johnson died on April 10, 1962, as a Swedish national.

By Commission letter of June 20, 1967, claimant was advised as to the type of evidence proper for submission to establish this claim under the Act. Thereafter, by letter of November 25, 1969, the claimant was advised that the claim was under active consideration and after January 6, 1970, a determination of this claim might be made on the basis of the record then available. A copy of Commission letter of November 25, 1969, in which

submission of evidence had been suggested to claimant's brother, Harry Arthur Johnson, who made a claim in part for the identical property involved in this claim, was attached for claimant's assistance. However, no evidence has been submitted to date.

The Commission finds that claimant has not met the burden of proof in that he has failed to establish ownership of rights and interests in property which was nationalized, appropriated or otherwise taken by the Government of Cuba on a date when such property was owned by a national of the United States. (See Claim of Sigridur Einarsdottir, Claim No. CU-0728, 25 FCSC Semiann. Rep. 45 [July-Dec. 1966].) 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

18 MAR 1970

  
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Lyle S. Garlock, Chairman

  
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Theodore Jaffe, Commissioner

  
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Sidney Freidberg, 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-3193