

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

IN THE MATTER OF THE CLAIM OF

JOAQUIN FARINAS  
ADDY HERRERA de FARINAS

Claim No. CU-3743

Decision No. CU

130

Under the International Claims Settlement  
Act of 1949, as amended

PROPOSED DECISION

This claim against the Government of Cuba, under Title V of the International Claims Settlement Act of 1949, as amended, in the amount of \$44,000.00, was presented by JOAQUIN FARINAS and ADDY HERRERA de FARINAS, based upon the asserted loss of certain improved real property and personal property resulting from actions of the Government of Cuba. Claimant, JOAQUIN FARINAS, states that he has been a national of the United States since his naturalization on August 21, 1966. No evidence has been submitted to establish that ADDY HERRERA de FARINAS ever acquired United States nationality.

Under Title V of the International Claims Settlement Act of 1949 [78 Stat. 1110 (1964), 22 U.S.C. §§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 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.

Under the provisions of Sections 502(3), 503(a) and 504(a) of the Act, supra, not only should the claimants herein establish that they were the owners of interests in subject property; they must also establish that some measure depriving them of their interests herein was applied by the Government of Cuba not only after January 1, 1959, but subsequent to the date on which they acquired citizenship of the United States. According to the statements of claimant, JOAQUIN FARINAS, he did not acquire United States

nationality until August 21, 1966; no evidence has been submitted to establish that ADDY HERRERA de FARINAS ever acquired United States nationality. Furthermore, claimants have failed to establish that any compensable loss occurred subsequent to the date that JOAQUIN FARINAS acquired United States nationality.

On the basis of the existing record, the Commission finds that claimants have failed to establish that the property which is the subject matter of this claim was owned by a national or nationals of the United States on the date of loss, a requirement of Section 504(a) of the Act.

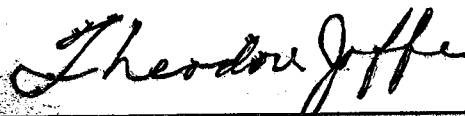
Accordingly, for the reason stated above, the Commission concludes that this claim is not one within the purview of Title V of the Act, supra, and it is denied. The Commission deems it unnecessary to make findings with respect to further elements of this claim.

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

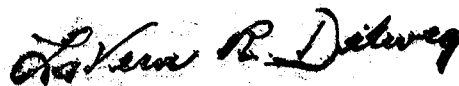
AUG 23 1967



Edward D. Re, Chairman



Theodore Jaffe, Commissioner



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).)