

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

IN THE MATTER OF THE CLAIM OF

VIVIAN M. BAPTISTE  
LEONA SCOTT

Claim No. CU-8218

Decision No. CU 3887

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 \$30,000.00, was presented by VIVIAN M. BAPTISTE based upon the asserted ownership and loss of certain real property in Cuba. Claimant, VIVIAN M. BAPTISTE has been a national of the United States since birth. LEONA SCOTT, having petitioned to be joined in this matter, it is

ORDERED that the petition be and it is hereby granted. Claimant, LEONA SCOTT has also been a national of the United States since birth.

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 paritally, 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 Commission's Regulations provide that claims under Title V of the Act (Cuban claims) shall be filed with the Commission on or before May 1, 1967, (FCSC Reg., 45 C.F.R. See 513.1(d) (Supp. 1967)); and further that any initial written indication of an intention to file a claim received within 30 days prior to the expiration of the filing period thereof shall be considered as a timely filing of a claim if formalized within 30 days after the expiration of the filing period. (Reg., Sec. 531.1(g)).

The Commission has held, however, that it will accept for consideration on their merits claims filed after the deadline so long as the consideration thereof does not impede the determination of those claims which were timely filed. (See Claim of John Korenda, Claim No. CU-8255.)

The record contains reports to the Commission from sources abroad, a copy of Document No. 21 entitled "Division of Condominium and Adjudication" through which the property in question was inherited on January 21, 1952; affidavits from individuals having personal knowledge of the facts who knew the claimants for a number of years in Cuba; and detailed statements by the claimants concerning the property.

On the basis of the entire record, the Commission finds that claimant, VIVIAN M. BAPTISTE owned a farm, known as "Vivien", in Herradura, Pinar del Rio, Cuba, consisting of 16 acres which included 8 acres of orange groves; and that claimant, LEONA SCOTT, owned a lot of land in the same area consisting of 16.36 acres, which included 14 acres of orange groves.

The record indicated that the properties in question were formerly owned by claimant's mother and in 1935 orange groves were planted on 8 acres of the land owned by VIVIAN M. BAPTISTE and on 14 acres owned by LEONA SCOTT. Claimant, VIVIAN M. BAPTISTE, asserts that her property was valued at \$10,000.00 and claimant, LEONA SCOTT, asserts that her property was valued at \$20,000.00 at the time of loss. The properties continued to be improved until the claimants left Cuba.

On December 6, 1961, the Cuban Government published Law 989, which confiscated all real property, personal property, rights, shares, stocks, bonds, securities and bank accounts of persons who had left the country. The Commission finds that this law applied to the claimants, who had left Cuba prior to that date, and that their interests in all of the property claimed were taken by the Government of Cuba on December 6, 1961 pursuant to Law 989. The Commission further finds that as a result of said action claimants

sustained a loss of property within the meaning of Title V of the Act. (See Claim of Wallace Tabor and Catherine Tabor, Claim No. CU-0109, 25 FCSC Semiann. Rep. 53 [July-Dec. 1966].)

In arriving at the value of claimants' properties, consideration was given to all of the evidence of record including photographs of claimant, VIVIAN M. BAPTISTE'S orange groves and records of expenditures incurred in the upkeep thereof from 1950 through 1959. The asserted values are also supported by affidavits from persons who were familiar with the properties and the groves.

Upon consideration of the entire record, the Commission finds that on the date of loss, December 6, 1961, the value of the properties was as follows:

VIVIAN M. BAPTISTE

8 acres of orange groves	\$10,000
8 acres unplanted	2,000

LEONA SCOTT

14 acres of orange groves	17,500
2.36 acres unplanted	590

Although claimant, LEONA SCOTT asserted that she owned 18 acres of land, the evidence submitted by the claimant and substantiated by information received from the Department of State indicates her ownership interest to be 16.36 acres.

Accordingly, inasmuch as claim for 1.64 acres has not been substantiated this portion of the claim is denied.

The Commission has decided that in certification of losses on claims determined pursuant to Title V of the International Claims Settlement Act of 1949, as amended, interest should be included at the rate of 6% per annum from the date of loss to the date of settlement (see Claim of Lisle Corporation, Claim No. CU-0644), and in the instant case it is so ordered.

CERTIFICATIONS OF LOSS

The Commission certifies that VIVIAN M. BAPTISTE suffered a loss, as a result of actions of the Government of Cuba, within the scope of Title V of the International Claims Settlement Act of 1949, as amended, in the amount of Twelve Thousand Dollars (\$12,000.00) with interest thereon at 6% per annum from December 6, 1961 to the date of settlement; and

The Commission certifies that LEONA SCOTT suffered a loss, as a result of actions of the Government of Cuba, within the scope of Title V of the International Claims Settlement Act of 1949, as amended, in the amount of Eighteen Thousand Ninety Dollars (\$18,090.00) with interest thereon at 6% per annum from December 6, 1961 to the date of settlement.

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

SEP 24 1969

*Leonard v. B. Sutton*  
Leonard v. B. Sutton, Chairman

*Theodore Jaffe*

Theodore Jaffe, Commissioner

*Sidney Freidberg*

Sidney Freidberg, Commissioner

The statute does not provide for the payment of claims against the Government of Cuba. Provision is only made for the determination by the Commission of the validity and amounts of such claims. Section 501 of the statute specifically precludes any authorization for appropriations for payment of these claims. The Commission is required to certify its findings to the Secretary of State for possible use in future negotiations with the Government of Cuba.

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).)