



objection was held on January 25, 2012. The claimant did not appear at the hearing, but was represented by counsel. Counsel did not proffer any further evidence or argument in support of the claim.

To summarize, claimant, in his Statement of Claim, alleged that he was a “common law” sibling of Ms. Gonzalez-Arias but acknowledged that he was not her “legal” brother. The Commission in its Proposed Decision noted that several other claims had been filed on behalf of the Estate of Esther Gonzalez-Arias by persons who claim to be the legal heirs to the Estate. Accordingly, the Commission determined that the claimant had failed to meet his burden to establish that he had standing to pursue this claim.

In light of the fact that claimant has failed to provide any evidence to warrant revision of the Commission’s determination, the denial set forth in the Proposed Decision in this claim must be and is hereby affirmed. This constitutes the Commission’s final determination in this claim.

Dated at Washington, DC, March 15, 2011  
and entered as the Final Decision  
of the Commission.

  
\_\_\_\_\_  
Timothy J. Feighery, Chairman

  
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Rafael E. Martinez, Commissioner



*Honorable Mauricio J. Tamargo, Chairman, Foreign Claims Settlement Commission*  
("January Referral Letter").

The present claim is made under Category E. According to the January Referral Letter, Category E consists of

claims of U.S. nationals for wrongful death or physical injury resulting from one of the terrorist incidents listed in Attachment 2 ("Covered Incidents"), incidents which formed the basis for Pending Litigation in which a named U.S. plaintiff alleged wrongful death or physical injury, provided that (1) the claimant was not a plaintiff in the Pending Litigation; and (2) the claim meets the standard for physical injury or wrongful death, as appropriate, adopted by the Commission.

*Id.* at ¶ 7. Attachment 1 to the January Referral Letter lists the suits comprising the Pending Litigation and Attachment 2 lists the Covered Incidents.

The January Referral Letter, as well as a December 11, 2008 referral letter ("December Referral Letter") from the State Department, followed a number of official actions that were taken with respect to the settlement of claims between the United States and Libya. Specifically, on August 4, 2008, the President signed into law the Libyan Claims Resolution Act ("LCRA"), Pub. L. No. 110-301, 122 Stat. 2999, and on August 14, 2008, the United States and Libya concluded the *Claims Settlement Agreement Between the United States of America and the Great Socialist People's Libyan Arab Jamahiriya* ("Claims Settlement Agreement"), 2008 U.S.T. Lexis 72, entered into force Aug. 14, 2008. On October 31, 2008, the President issued Executive Order No. 13,477, 73 Fed. Reg. 65,965 (Nov. 5, 2008), which, *inter alia*, espoused the claims of U.S. nationals coming within the terms of the Claims Settlement Agreement, barred U.S. nationals from asserting or maintaining such claims, terminated any pending suit within the terms of the Claims Settlement Agreement, and directed the Secretary of State to establish procedures governing claims by U.S. nationals falling within the terms of the Claims Settlement Agreement.

On July 7, 2009, the Commission published notice in the *Federal Register* announcing the commencement of this portion of the Libya Claims Program pursuant to the ICSA and the January Referral Letter. *Notice of Commencement of Claims Adjudication Program*, 74 Fed. Reg. 32,193 (2009).

#### BASIS OF THE PRESENT CLAIM

On April 27, 2010 the Commission received from claimant a Statement of Claim asserting a claim under Category E of the January Referral Letter, along with exhibits supporting the claim. This submission included: evidence of the U.S nationality of claimant and his brother Hector Esteban Guzman Vidal; evidence relating to Ms. Gonzalez-Arias's presence at the terrorist attack at Lod Airport in Israel on May 30, 1972; and evidence of her death as a result the terrorist incident.

#### DISCUSSION

##### *Standing*

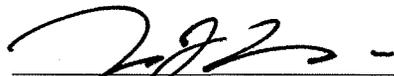
As a threshold matter, claimant must establish that he is the proper claimant in this claim. In the case of claims brought on behalf of deceased victims, a claimant must provide the Commission with evidence that he or she is legally entitled to bring the claim. *Claim of ESTATE OF ELIZABETH L. ROOT, DECEASED; JAMES G. ROOT & DAVID H. ROOT, PERSONAL REPRESENTATIVES*, Claim No. LIB-II-040, Decision No. LIB-II-026 (2011). In the present claim the claimant states that he was a "common law" sibling of Ms. Gonzalez-Arias but acknowledged that he was not her "legal" brother. Claimant further states that "[a]t the moment of her death, we were her only family in her life, as she did not leave any other heirs or descendants."

The Commission has received several claims on behalf of the Estate of Esther Gonzalez Arias. Each of the other claims has been submitted on behalf of persons who

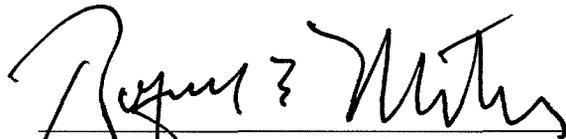
claim to be the legal heirs of Ms. Arias. In addition the Commission takes notice of the Department of State "Report of the Death of an American Citizen" filed with regard to Ms. Gonzalez-Arias. In that report a Mr. Edelmiro Morales was identified as the husband of the decedent. The Commission staff requested, by letter dated May 25, 2011, that claimant clarify to the Commission why he is eligible to participate in the decedent's claim; however, there has been no response to this letter. Based on the evidence submitted the Commission finds that the claimant has failed to meet his burden to establish that he is the proper claimant. Accordingly, the Commission determines that ENRIQUE GUZMAN-VIDAL is not legally entitled to bring this claim.

In light of the foregoing, the Commission concludes that the claim of ENRIQUE GUZMAN-VIDAL does not qualify for compensation under Category E of the January Referral Letter. Accordingly, this claim based upon the wrongful death of Esther Gonzalez-Arias as a result of the Lod airport terrorist attack must be and is hereby denied.

Dated at Washington, DC, October 17, 2011  
and entered as the Proposed Decision  
of the Commission.



Timothy J. Feighery, Chairman



Rafael E. Martinez, Commissioner

NOTICE: Pursuant to the Regulations of the Commission, any objections must be filed within 15 days after service or receipt of notice of this Proposed Decision. Absent objection, this 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 Regulations, 45 C.F.R. § 509.5 (e), (g) (2010).