

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

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IN THE MATTER OF THE CLAIM OF

GERALDINE GARCIA DIAZ

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU - 2992

Decision No. CU 904

PROPOSED DECISION

By Proposed Decision No. CU-570, dated November 1, 1967, the Commission denied the claim of GERALDINE GARCIA DIAZ, together with the claim of Clara Garcia Melton, on the ground that the claimants failed to establish ownership of rights and interests in property which was nationalized, expropriated or otherwise taken by the Government of Cuba. The claim of GERALDINE GARCIA DIAZ, having been separated from Decision No. CU-570, this Proposed Decision now issues in this matter.

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 \$17,166.00, was presented by GERALDINE GARCIA DIAZ and is based upon the asserted ownership and loss of interests in certain real property, a bank account, and a life insurance policy. Claimant has been a national of the United States since her naturalization on December 19, 1956.

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).)

This claim is based upon claimant's asserted ownership and loss of interests in certain improved and unimproved real property, a bank account, and a life insurance policy. However, except for information concerning her naturalization, claimant has submitted no documentary evidence to establish her claim.

By Commission letter of July 24, 1967, claimant was advised as to the type of evidence proper for submission to establish her claim under the Act. However, no evidence in response to this correspondence has been received to date.

On August 29, 1967, claimant was invited to submit any evidence available to her within 45 days from that date, and she was informed that, absent such evidence, it might become necessary to determine the claim on the basis of the existing record. 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. 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.

The Regulations of the Commission provide:

Service by first class mail shall be regarded as complete, upon deposit in the United States mail properly stamped and addressed. [FCSC Reg., 45 C.F.R. §501.3(d) (Supp. 1967).]

Without previous hearing, the Commission may issue a proposed decision in determination of a claim. [FCSC Reg., 45 C.F.R. §531.5(b) (Supp. 1967).]

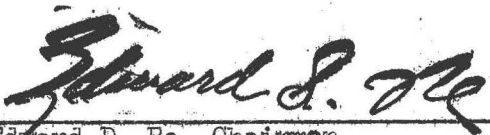
Such proposed decision shall be delivered to the claimant or his attorney of record in person or by mail. Delivery by mail shall be deemed completed 5 days after the mailing of such proposed decision addressed to the last known address of the claimant or his attorney of record. One copy of the proposed decision shall be available for public inspection at the office of the Commission. Notice of proposed decision shall be posted on the bulletin board at the office of the Commission on the day of its issuance and for 20 days thereafter. [FCSC Reg., 45 C.F.R. §531.5(c) (Supp. 1967).]

A copy of this Proposed Decision shall be mailed to claimant's last known address, one copy shall be available for public inspection

at the office of the Commission, and notice of this Proposed Decision shall be posted on the Commission's bulletin board on the day of its issuance and for 20 days thereafter. The foregoing shall constitute service of the Proposed Decision in accordance with Sections 501 and 531 of the Commission Regulations.

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

8 JAN 1969


Edward D. Re, Chairman


Theodore Jaffe, 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).)