

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

IN THE MATTER OF THE CLAIM OF

BETTY JANET MITCHELL

By: Robert W. Reed
The Christian and Missionary
Alliance

Claim No. V-0358

Decision No. V-0259

PROPOSED DECISION

This claim in the amount of \$1,630.00 against the Government of the Socialist Republic of Vietnam under Title VII of the International Claims Settlement Act of 1949, as amended by Public Law 96-606 (94 Stat. 3534), is based upon the loss of personal property in Ban Me Thuot.

Claimant, BETTY MITCHELL, was born in the State of Minnesota on January 12, 1921 and has been a lifelong citizen of the United States.

Under section 703 of Title VII of the International Claims Settlement Act of 1949, the Commission is given the following jurisdiction:

"The Commission shall receive and determine in accordance with applicable substantive law, including international law, the validity and amounts of claims by nationals of the United States against Vietnam arising on or after April 29, 1975, for losses incurred as a result of the nationalization, expropriation, or other taking of (or special measures directed against) property which, at the time of such nationalization, expropriation, or other taking, was owned wholly or partially, directly or indirectly, by nationals of the United States to whom no restoration or adequate compensation for such property has been made..."

BETTY MITCHELL was a missionary residing in Ban Me Thuot, South Vietnam, at the time the Communists launched their spring offensive against that town on March 10, 1975. Along with several other missionaries, BETTY MITCHELL was captured by North Vietnamese military forces on March 12 and subsequently transferred to Hanoi, where she was ultimately released on October 30, 1975. Upon her return to the United States, BETTY MITCHELL submitted a list of her personal property lost in Ban Me Thuot to

the Christian and Missionary Alliance in New York City, which had sponsored her work in South Vietnam. In this list BETTY MITCHELL indicated that she owned assorted household furnishings, appliances, recreational items, and clothing worth a total of \$1,630.00. In a letter to the Commission dated August 24, 1984, in which she provided a more detailed listing of her property in Ban Me Thuot, BETTY MITCHELL stated that she had no other evidence of her ownership of the property because all of her records had been lost at the time of her capture by the North Vietnamese. Based on the entire record, the Commission finds the two lists prepared by BETTY MITCHELL constitute sufficient evidence to establish her ownership of the property items therein.

The record contains no evidence as to what became of the subject property after BETTY MITCHELL's capture by the North Vietnamese on March 12, 1975. Ban Me Thuot, in the central highlands, was the first major town captured by the Communists in their spring offensive which culminated in the fall of Saigon and the surrender of the South Vietnamese regime on April 30, 1975. Among the source materials available to the Commission is a book by an Italian journalist who witnessed the fall of Saigon and the first few months of the new Communist regime in South Vietnam.¹ According to this source, Communist authorities in Saigon immediately began referring to property left behind by fleeing Americans and South Vietnamese as "property of the people." Communist soldiers--commonly known as "bo doi"--subsequently went from door to door in Saigon checking on the ownership of individual dwellings and taking inventory of their contents. Houses owned by Americans or South Vietnamese who had fled the country were occupied by the "bo doi," who also made use of the household effects found therein. Many items of personal property originally requisitioned by the Communist soldiers--such as automobiles, motorcycles, and television sets--were turned over to local political organizations or amassed in government warehouses.

¹ T. TERZANI, GIAI PHONG! THE FALL AND LIBERATION OF SAIGON (1976)

A communique issued by military authorities in Saigon on June 14, 1975 acknowledged this treatment of property belonging to now absentee owners.

From the foregoing information it is clear that the policy of the new Communist authorities in Saigon was to bring all of the property belonging to Americans and South Vietnamese who had fled the country under government control. It is logical to conclude that this policy was also carried out in the other areas of South Vietnam which had been overrun during the final offensive in March and April 1975. Considering the speed with which the Communist authorities moved to secure the "property of the people" in Saigon, it seems reasonable to conclude that this policy would have been undertaken throughout South Vietnam during the spring of 1975.

The Commission concludes, therefore, that BETTY MITCHELL's household effects and other items of personality in Ban Me Thuot would have been considered "property of the people" by the Communist authorities and taken under government control. In the absence of precise evidence as to when such action occurred, the Commission finds that the subject property was taken on or about May 1, 1975--the date the Communists completed their occupation of South Vietnam. As BETTY MITCHELL was a United States citizen on the date of loss, the Commission determines that she is entitled to an award under the provisions of Public Law 96-606.

In determining the value of the subject property, the Commission has given careful consideration to the two lists furnished by the claimant. BETTY MITCHELL indicates that many of the items had been purchased since her last return to Vietnam in August 1974 and were therefore still quite new at the time of loss. Based on the entire record, the Commission finds that the \$1,630.00 asserted by the claimant is a reasonable estimate of the value of her property at the time of loss. Accordingly, the Commission determines that BETTY MITCHELL is entitled to an award in the principal amount of \$1,630.00.

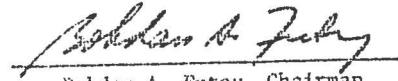
The Commission has concluded that in granting awards on claims under section 703 of Title VII of the Act, for the nationalization, expropriation, or other taking or property, interest shall be allowed at the rate of 6% simple interest per annum from the date of loss to the date of settlement. (See Claim of JOHN HEDIO PROACH, Claim No. PO-3197, Decision No. PO-652 (1968).)

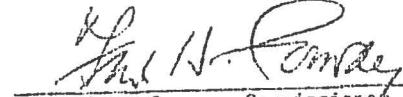
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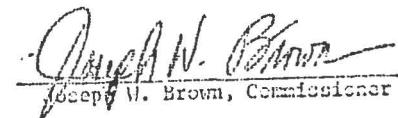
Claimant, BETTY MITCHELL, is therefore entitled to an award in the principal amount of One Thousand Six Hundred Thirty Dollars (\$1,630.00), plus interest at the rate of 6% simple interest per annum from May 1, 1975 until the date of settlement.

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

NOV 28 1984


Bohdan A. Futey, Chairman


Frank H. Conway, Commissioner


Joseph M. Brown, Commissioner

This decision was entered as the Commission's
Final Decision on MAR 11 1985