

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

IN THE MATTER OF THE CLAIM OF

EDUARDO AGUSTIN LOPEZ-SILVERO  
MARION JEAN LOPEZ-SILVERO

Under the International Claims Settlement  
Act of 1949, as amended

Claim No. CU -0629

Decision No. CU 1031

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 \$2,575.75, was presented by EDUARDO AGUSTIN LOPEZ-SILVERO and MARION JEAN LOPEZ-SILVERO based upon the asserted loss of certain medical instruments and clothing in Cuba. Claimants have been nationals of the United States at all times pertinent to this claim.

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. That section 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.

Claimants contend that they lost certain medical instruments and clothing in Cuba. The record contains a receipt which shows that on January 15, 1960 claimant EDUARDO AGUSTIN LOPEZ-SILVERO purchased an optical instrument known as a slit lamp for \$1,530.00. The record also contains an affidavit from the father of Mr. Lopez-Silvero which states that when the claimants left Cuba in 1960 they left the slit lamp in his office and that the office and all the instruments therein were subsequently taken by the Cuban Government.

On the basis of the entire record, the Commission finds that claimants were the owners, in equal parts, of a slit lamp in Cuba.

On December 6, 1961 the Cuban Government published its Law 989 (Official Gazette, XXIII, No. 237, p. 23705) which confiscated all assets, personal property and real estate, rights, shares, stocks, bonds and securities of persons who had left the country. (See the Claim of Wallace Tabor and Catherine Tabor, FGSC Claim No. CU-109.)

As the record shows, in December 1961, claimants were residents of the United States. The Commission finds, in the absence of evidence to the contrary, that the slit lamp was taken by the Government of Cuba on December 6, 1961 pursuant to the provisions of Law 989.

Based on the entire record the Commission finds that the lamp had a value of \$1,530.00, and accordingly the Commission concludes that each claimant suffered a loss in the amount of \$765.00 within the meaning of Title V of the Act.

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 the Claim of Lisle Corporation, FCSC Claim No. CU-0644.)

Accordingly, the Commission concludes that the amount of the loss sustained by claimants shall be increased by interest thereon at the rate of 6% per annum from December 6, 1961, the date on which the loss occurred, to the date on which provisions are made for the settlement thereof.

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(6) (Supp. 1967).)

The remainder of this claim is based upon the loss of other medical instruments and clothing. However, other than their own statements and an affidavit from Mr. Lopez-Silvero's father, no evidence has been presented in support of this portion of the claim, although the claimants were advised on September 8, 1967 and December 13, 1967 of the type of evidence necessary to establish this claim. Accordingly, in reference to this portion of the claim, the Commission finds that claimants have not met the burden of proof in that they have failed to establish ownership rights in property which was nationalized, expropriated or otherwise taken by the Government of Cuba. Thus the Commission is constrained to deny this portion of the claim and it is hereby denied.

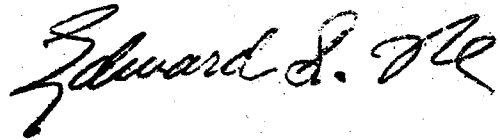
CERTIFICATION OF LOSS

The Commission certifies that EDUARDO AGUSTIN LOPEZ-SILVERO 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 Seven Hundred Sixty-Five Dollars (\$765.00), with interest thereon at 6% per annum from December 6, 1961 to the date of settlement; and

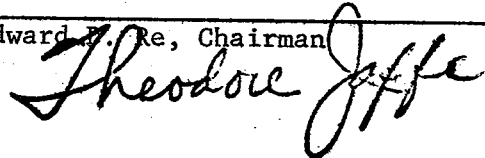
The Commission certifies that MARION JEAN LOPEZ-SILVERO suffered a loss, as a result of actions of the Government of Cuba, within the scope of Title V of the International Claims Settlement Act of 1949, as amended, in the amount of Seven Hundred Sixty-Five Dollars (\$765.00), with interest thereon at 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

JAN 24 1968

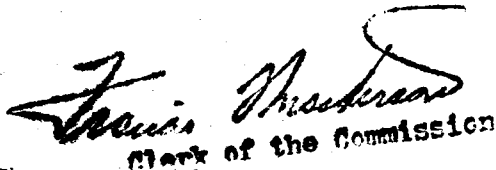


Edward F. Re, Chairman



Theodore Jaffe, Commissioner

*This is a true and correct copy of the decision of the Commission which was entered as the final decision on FEB 27 1968*

  
Francis M. Brennan  
Clerk of the Commission

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).)