

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

IN THE MATTER OF THE CLAIM OF

WILFREDO VILLASUSO RODRIGUEZ

Under the International Claims Settlement  
Act of 1949, as amended

Claim No. CU -4747

Decision No. CU - 6843

Petition to reopen; Order of Dismissal dated and entered March 5, 1969.

FINAL DECISION

This claim against the Government of Cuba, opened by the Commission on behalf of the claimant, was dismissed by Order of the Commission No. CU-279 dated March 5, 1969, for the reason that claimant, upon his return from Cuba to the United States, failed to prosecute the claim.

Subsequently, claimant requested that the claim be reopened. Supporting documentation has been received, including evidence that claimant has been a national of the United States since birth. In his claims application, claimant stated that he suffered losses in the aggregate amount of \$85,211.80.

Upon due consideration, claimant's request for the reopening of the claim is granted, the Order of Dismissal is set aside, and the following decision will be entered.

The record shows that claimant and his wife Magdalena Petrona Gonzalez Pino, owned jointly, under the community property laws of Cuba, improved real property consisting of land measuring 149.50 square meters with a family house erected thereon, located at No. 55 Calle Rita, in the section of Luyano, within the city limits of Havana; a business place engaged in the sale of furniture, upholstery and mattresses situated at No. 655 Neptuno in Havana; a savings certificate issued by Banco del Caribe S.A. combined with a lottery capitalization feature paid up in the sum of \$330.00; three savings accounts with the Banco Nacional de Cuba in the aggregate amount of \$10,476.72; 30 head of cattle kept in a ranch in the province of Camaguey; a 1959 Chevrolet passenger car; and

furniture and household goods in their home in Havana. Additionally, claimant states that he had on deposit with the Banco Nacional de Cuba a savings account of \$14,388.00 which was reduced under the provisions of Law 963 and Law 964 to \$10,000.00, resulting in a loss to the claimant in the amount of \$4,388.00.

The Commission records show that Banco del Caribe S.A. was nationalized by the Government of Cuba pursuant to Law 891 on October 13, 1960 (see Claim of Eugene Saunders Roberts, Claim No. CU-0513) and that the savings certificates issued by that bank remained unpaid. By Law 964 published in the Cuban Official Gazette on August 9, 1961, balances in savings accounts (created by Law 963) over 10,000 pesos passed to the State Treasury (see Claim of Dorothy G. O'Kieffe, Claim No. CU-1242). By Law 989, published in the Cuban Official Gazette of December 6, 1961, the Cuban Government effectively confiscated all assets, real and personal property, rights, shares of stock, bonds and other property of persons who left Cuba (see Claim of Wallace Tabor et al., Claim No. CU-0109, 25 FCSC Semiann. Rep. 53 [July-Dec. 1966]). The Commission, therefore, finds that claimant's interest in the savings certificate issued by the Banco del Caribe S.A. was taken by the Government of Cuba on October 13, 1960; the balance of \$4,388.00 in his savings account with the Banco Nacional de Cuba on August 9, 1961; and the remainder of his property discussed in the preceding paragraph, with the exception of the business enterprise (the furniture store) on October 9, 1968, the date of claimant's departure from Cuba for the United States.

Although the claim was timely filed, and whereas it appears that claimant's loss did not arise, in part, until 1968, subsequent to the close of the period for filing claims of this nature against the Government of Cuba, the Commission has held that it will consider on their merits claims for losses sustained subsequent to the deadline, so long as consideration thereof does not impede the determination of claims which arose prior to the close of the filing period (see Claim of Vivian Lopez Morales, Claim No. CU-8739).

Section 504(a) of the Act provides that a claim shall not be considered under Section 503(a) of the Act unless the property on which the claim is 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 record indicates that claimant's wife was not a national of the United States on the dates of loss and therefore her one-half interest in the property mentioned above cannot be considered here.

The value of claimant's interest in the property remains to be determined. Section 503(a) of the Act provides that in making determinations with respect to the validity and amount of claims and value of properties, rights, or interests therein, the Commission shall take into account the basis of valuation most appropriate to the property and equitable to the claimant, including but not limited to the fair market value, book value, going concern value, or cost of replacement.

On the basis of the entire record, the Commission finds the following values at the time of the loss:

House and lot at 55 Calle Rita	\$15,000.00
Chevrolet car and household goods, after depreciation	8,000.00
Savings certificate of Banco del Caribe	330.00
Savings accounts	10,476.42
Cattle	9,000.00
While the loss from the reduction of the savings account from \$14,388.00 to \$10,000.00 amounted to	<u>4,388.00</u>
Total	\$47,194.42

Accordingly, claimant, considering his one-half interest, suffered a loss of \$23,597.21.

With respect to the business enterprise consisting of a store for the sale of furniture and related articles, the Commission finds that claimant has failed to establish the date of the intervention, expropriation or other taking of that enterprise, and the value of its assets on the date of taking. Claimant states

that the business enterprise was taken on January 4, 1967 and that its value was \$37,394.08, but this statement is not supported by any evidence, nor by an inventory, balance sheet or similar document. In the absence of such evidence, the Commission is constrained to deny this item of the claim and it is hereby denied.

The Commission has decided that in certifications of loss 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 dates 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, as follows:

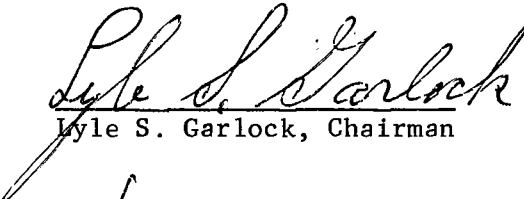
<u>FROM</u>	<u>ON</u>
October 13, 1960	\$ 165.00
August 9, 1961	2,194.00
October 9, 1968	<u>21,238.21</u>
	\$23,597.21

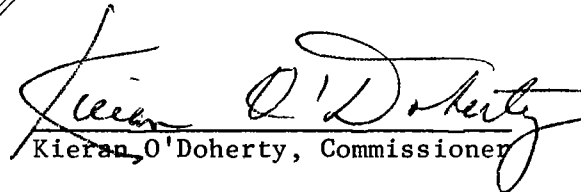
CERTIFICATION OF LOSS

The Commission certifies that WILFREDO VILLASUSO RODRIGUEZ 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 Twenty-Three Thousand Five Hundred Ninety-Seven Dollars and Twenty-One Cents (\$23,597.21) with interest thereon at the rate of 6% per annum from the respective dates of loss to the date of settlement.

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

JUN 30 1972

  
Lyle S. Garlock, Chairman

  
Kieran O'Doherty, 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.