

CLAIM OF KINJI MATSUHIRO

[No. 146-35-26. Decided January 11, 1951]

FINDINGS OF FACT

This claim, received by the Attorney General on November 2, 1948, has two separate and distinct aspects. It alleges, first, property loss in the amount of \$1,660 through forced sale of an automobile and theft from storage of a radio, desk, bed and mattress, and two moving picture projectors with film. Secondly, it alleges damage and loss, in unspecified amount, by virtue of the death of claimant's father at the relocation center, claimant's loss of time and opportunity to earn money during the period of his evacuation, and claimant's mental suffering both during and after his evacuation. Claimant was born in California of Japanese parents and has at no time since December 7, 1941, gone to Japan. On December 7, 1941, and for some time prior thereto, claimant resided in a rural community, his address being Route 1, Box 213, Acampo, San Joaquin County, California, from which address he was evacuated on May 21, 1942, under military orders pursuant to Executive Order No. 9066, to the Stockton Assembly Center, Stockton, California, and from there to the Rohwer Relocation Center, Rohwer, Arkansas. At the time of his evacuation, claimant was not permitted to take the property involved with him to the relocation center. In consequence of this fact, claimant sold his automobile, and stored the remaining items in the house of his brother which he and his brother then locked and boarded up. Claimant had no free market on which to dispose of his property at reasonable prices and, in view of the situation existing at the time, acted reasonably in selling his car for \$65 and in storing the

other personalty in the locked house of his brother. The then fair value of claimant's car was \$100, and of his stored property \$85. While claimant was in the relocation center, his brother's house was broken into and all of claimant's stored property stolen and claimant has never recovered any of the items. Claimant was unmarried and sole owner of the property involved at the respective times of loss and the losses have not been compensated for by insurance or otherwise. No consideration has been given to claimant's allegations of damage and loss in consequence of the death of his father, his inability to earn money, and his mental suffering.

REASONS FOR DECISION

Claimant's \$35 loss on the sale of his automobile is allowable. *Toshi Shimonmaye, ante*, p. 1. Claimant's \$85 loss through theft is likewise allowable. *Akiko Yagi, ante*, p. 11. Claimant's remaining allegations are not cognizable, however. That the Statute does not authorize awards of damages as if the evacuation and exclusion of the evacuees had constituted an actionable wrong, is now settled. *Mary Sogawa, ante*, p. 126. Moreover, Section 2 (b) of the Statute specifically provides:

The Attorney General shall not consider any claim—

(4) for damages or loss on account of death or personal injury, personal inconvenience, physical hardship, or mental suffering;

(5) for loss of anticipated profits or loss of anticipated earnings.

In light of these express statutory provisions, it is *a fortiori* clear that claimant's allegations of damage and loss on account of the death of his father, his loss of time and opportunity to earn money, and his mental suffering cannot be considered, and denial thereof is mandatory.