

RUSSELL STROTHER (U.S.A.) *v.* UNITED MEXICAN STATES.*(July 8, 1927. Pages 392-393.)*

*Fernández MacGregor, Commissioner :*

1. This claim is presented by the United States of America in behalf of Russell Strother, an American Citizen who, as alleged in the Memorial, was arbitrarily and illegally detained by the Mexican authorities who held him prisoner for a long period in violation of Mexican laws and subjected him to cruel and inhuman treatment during the entire period of such detention.

2. According to the record, Strother was one of the men who, together with Harry Roberts and others, were charged with having taken part in an assault on the home of one Eduardo F. Watts, on May 5, 1922, in the vicinity of Ebano station, State of San Luis Potosí, Mexico. All the facts in connection with this claim are the same as those stated in the relative paragraphs of the decision rendered by this Commission, November 2, 1926, in the claim presented by the United States of America in behalf of *Harry Roberts*, Docket No. 185,<sup>1</sup> with the only difference that Strother, together with other convicts, escaped from the prison where he was confined with his companions, on May 16, 1923, and he is charged with being the intellectual and material author of the offense of escaping from prison with the aggravating circumstances of assault on the guard and warden of the jail of Ciudad Valles, State of San Luis Potosí, Mexico. He was reapprehended two days after his escape; that is, Friday, May 18, 1923.

3. Mexico has alleged, on her part, that the circumstance that Strother escaped from the jail where he was confined, as stated, if it does not preclude the claimant from appearing before this Commission to demand an indemnification for damages suffered, should, at least, be taken into account when awarding his damages. The United States, on the other hand, contends that when Strother was reapprehended he suffered on this account cruel treatment which Roberts did not suffer and that he is entitled to greater damages.

4. I consider that the facts set forth in the preceding paragraph should not have any effect on the solution of this case, which is in all its other aspects similar to that of Harry Roberts, the considerations of fact and law stated in the Commission's decision referred to above, being applicable to it. Therefore, I am of the opinion that the claimant should be given an award of \$8,000.00.

*Van Vollenhoven, Presiding Commissioner :*

I concur in Commissioner Fernández MacGregor's opinion.

*Nielsen, Commissioner :*

I concur in Commissioner Fernández MacGregor's opinion.

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<sup>1</sup> See page 77.

*Decision*

On the above grounds the Commission decides that the Government of the United Mexican States must pay to the Government of the United States of America, on behalf of Russell Strother, the sum of \$8,000.00 (eight thousand dollars), without interest.

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