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MEXICO/U.S.A. (GENERAL CLAIMS COMMISSION)

S. J. STALLINGS (U.S.A.) *v.* UNITED MEXICAN STATES

(April 22, 1929. Pages 224-226.)

The Presiding Commissioner, Dr. Sindballe, for the Commission:

In this case claim in the sum of \$10,120.00, United States currency, is made against the United Mexican States by the United States of America on behalf of S. J. Stallings, an American citizen. The facts out of which the claim arises are as follows:

At about 5 P. M. on January 11, 1924, the claimant, who was employed by the American Smelting and Refining Company in the vicinity of Parral, Chihuahua, Mexico, was traveling in an automobile on the mainroad between the Veta Grande property and the Parral Consolidated property of the said company. He was then held up by a band of approximately twenty mounted and armed Mexicans. He was ordered out of the car, robbed of personal property of the alleged value of \$120.00, United States currency, forced to sign a note demanding the company by which he was employed to pay \$15,000, Mexican currency, for his release, and ordered to the nearby hills, where he was detained until the following morning when a messenger from the company arrived with \$10,000, Mexican currency.

The United States contends that Mexico is responsible for the hardship suffered by the claimant, first, because of failure properly to protect the residents of the district where the event took place, secondly because of failure to apprehend and punish the criminals.

The Commission is of the opinion that there is not sufficient evidence to establish a responsibility on the part of Mexico for failure to afford proper protection. It appears that Federal troops were withdrawn from the State of Chihuahua some time before the abduction took place, but, as mentioned in the opinion of the Commission in the case of *Charles S. Stephens and Bowman Stephens*, Docket No. 148,¹ this took place because the troops were needed farther south for the purpose of quelling the Adolfo de la Huerta revolution. Other instances of criminal activity are recorded to have taken place on the same day when the abduction occurred, but not prior to that day.

With regard to the question of failure to apprehend and punish the criminals the following appears: The local authorities of Parral were informed of what had taken place when Stallings had been released. No action was taken by the ordinary judicial or police authorities. Federal forces were, as stated above, withdrawn from Chihuahua. Auxiliary forces had been formed in Parral, and the day after the abduction the President of Mexico and the Secretary of War and Navy were informed by the Chief of Military Operations at Chihuahua that orders for the pursuit of the criminals had already been given by Col. Ortega of the auxiliary forces, and that it was expected that the criminals would be captured at any moment. It appears,

¹ See page 265.

however, that on January 17, 1924, when some fifty mounted men were ready to start in pursuit of the bandits, the Colonel refused them permission to do so. In view hereof, and since no other action to apprehend the criminals appears to have been taken, the Commission is of the opinion that a failure to take proper steps to apprehend the bandits such as to make Mexico responsible has been established in this case, and that therefore an award should be made in the sum of \$400, United States currency.

Decision.

The United Mexican States shall pay to the United States of America on behalf of S. J. Stallings, \$400 (four hundred dollars), United States currency, without interest.
