

**REPORTS OF INTERNATIONAL
ARBITRAL AWARDS**

**RECUEIL DES SENTENCES
ARBITRALES**

Richard A. Newman (U.S.A.) v. United Mexican States

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between the United States and Mexico, must be presented by the claimant to the Commission in a case like the present. The Commission deems it unnecessary to consider this question, as it appears that Vincent has agreed to the present claim being presented on behalf of Davies.

That Davies and Vincent were the owners of 328 cords of wood situated at the station of Vigia, and that the wood was taken from them, is admitted by the respondent Government, but, referring to a statement of the Municipal President at Fronteras to the effect that the wood was taken by unknown persons and not confiscated by the authorities, the respondent Government denies that the wood was taken by the fiscal agent of the State of Sonora. However, as the statement of the Municipal President contains no particulars with regard to the taking of the goods, and as there are submitted affidavits of Davies, of Vincent, and of four other persons setting forth detailed statements to the effect that the wood actually was seized by the fiscal agent of the State of Sonora, Jesús O. Cota, the Commission is of the opinion that the confiscation of the wood as alleged by the claimant is sufficiently proven.

It is stated by the Municipal President at Fronteras that the value of the wood at the Station of Vigia was \$2,664.00, Mexican currency. As the estimate of the claimant does not seem exaggerated, the Commission, however, is of the opinion that an award in the amount claimed should be rendered.

Decision

The United Mexican States shall pay to the United States of America on behalf of Samuel Davies \$820 (eight hundred twenty dollars), United States currency, with interest thereon at the rate of six per centum per annum from May 1, 1917, to the date when the last award is rendered by the Commission.

RICHARD A. NEWMAN (U.S.A.) *v.* UNITED MEXICAN STATES

(*May 6, 1929. Pages 284-286.*)

DENIAL OF JUSTICE.—FAILURE TO APPREHEND OR PUNISH. Claimant was kidnapped and held for ransom by Mexican bandits, necessitating considerable medical treatment by reason of hardships and injury suffered during his abduction. Dilatory efforts to apprehend the bandits were taken by Mexican authorities. About four years later leader of bandits surrendered to the military authorities but neither he nor his followers were ever tried or punished for abduction of claimant. Claim *allowed*.

Cross-reference: Am. J. Int. Law, Vol. 24, 1930, p. 411.

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

In this case claim in the sum of \$15,000.00, United States currency, is made against the United Mexican States by the United States of America on behalf of Richard A. Newman, an American citizen, alleged to have

been kidnapped by Mexican bandits, for failure on the part of the Mexican authorities to rescue Newman and to apprehend and punish the kidnappers.

The facts out of which the claim arises are alleged to be as follows:

During the early part of January 1923, the claimant went to Mexico and established a small farm on a rented plot of ground known as the Hacienda Guatimapé in the State of Durango, about sixty miles north of the City of Durango. On April 24, 1923, he went out on horseback to visit an old dam site located at the foot of a mountain range about three miles distant from his Hacienda, for the purpose of fishing in a river and of satisfying his interest in a certain engineering project. While in route he was accosted by four or five armed Mexicans, robbed of his horse, a pistol, a pocket knife, and some few pesos he had on his person, and taken into the mountains. The abductors proved to be under the leadership of General Juan Galindo, a well known rebel or bandit in the region. They told Newman that he would be released only on payment of \$30,000.00, Mexican currency, and they subjected him to various hardships. They kept him until October 29, 1923, when he was released on payment by a special representative of the American Government of \$300.00, United States currency. He was then in a miserable condition, infested with vermin and suffering with an infected leg, which had been injured during an attempt to escape, and which made treatment in a medical sanatorium necessary, causing him an expense of about \$1,000.00, Mexican currency.

The respondent Government alleges that Newman joined the bandits or remained with them from his own free will. It appears that certain rumors to that effect existed in the region, and such rumors are reflected in testimony given by military authorities of the State of Durango as well as by some other persons. It further appears that Newman was allowed to write a number of letters in English to representatives of the American Government. But these facts furnish no proof for the assumption that the case was one of self-abduction, and in the light of the content of Newman's letters, which are to the effect that he does not believe that Galindo will kill him, and that he does not want anybody to pay ransom for him, the assumption must be rejected.

As soon as the abduction of Newman was brought to the knowledge of the Mexican Government, orders to rescue Newman were issued to the military authorities of the State of Durango. But it must be assumed that these authorities were dilatory in the matter, possibly because they believed the case to be one of self-abduction, possibly because Galindo, although followed by a group of only a few men, had such relations with the population of the region as to make the authorities consider him not as a usual bandit but to some extent as a political factor. On May 30, 1927, Galindo surrendered to the military authorities, but neither he nor his followers were ever brought to trial or punished for the abduction of Newman. It appears that the surrender took place according to an arrangement previously arrived at, the terms of which are unknown.

The Commission is of the opinion that Mexico must be responsible for failure on the part of the Mexican authorities to take proper steps to rescue Newman and bring his abductors to trial, and that, therefore, an award in the sum of \$7,000.00, United States currency, should be rendered in the present case.

Decision.

The United Mexican States shall pay to the United States of America on behalf of Richard A. Newman the sum of \$7,000.00 (seven thousand dollars), United States currency, without interest.

JOHN I. HOWE (U.S.A.) *v.* UNITED MEXICAN STATES

(May 9, 1929. Pages 286-288.)

DENIAL OF JUSTICE.—FAILURE TO APPREHEND OR PUNISH. During course of insurrection claimant's cattle were driven off and claimant's store was robbed. Claimant later recognized leader of band which robbed his store and pointed him out to sergeant of government forces. Claimant also requested commander of government troops to arrest culprit. No action was taken. Claim *disallowed*, since it was not clear that information given by claimant was a sufficient basis for action.

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

In this case claim in the sum of \$647.47, United States currency, is made against the United Mexican States by the United States of America on behalf of John I. Howe, an American citizen, for alleged failure on the part of Mexican authorities to take proper steps to apprehend and punish some bandits or rebels responsible for the theft of property belonging to the claimant.

The facts out of which the claim arises are alleged to be as follows:

In October, 1923, Howe left the United States for the State of Veracruz, Mexico, with an emigrant car containing cattle, farm implements, household furniture and supplies. In the town of Lagos, a station on the Veracruz to Isthmus Railway, the cattle were unloaded and placed in the pasture of one E. D. Stone. Howe himself settled in the town of Isla, another station on the said Railway, and opened a store there. In December, 1923, at a time when, incident to the Adolfo de la Huerta insurrection, Government protection to the town of Lagos was withdrawn, a group of armed men, some fifty in number, drove off the cattle which Howe had placed in Stone's pasture, and during January and February, 1924, at a time when, incident to the same insurrection, Government protection was withdrawn from the town of Isla, and rebels were in possession of that town, a band of armed men came to Howe's store and robbed it of property of an alleged value of the sum claimed. In March, 1924, Government forces again came into possession of the town of Isla. Howe then informed the commander of the Government troops of the robbery of his property, and requested that steps be taken to apprehend the culprits, but no action was taken. A short time after, when Howe was travelling on a railway train, he recognized among the passengers the leader of the band which had robbed his store, and pointed him out to a sergeant who was stationed at Isla, and who, together with another soldier, was also on the train. But the sergeant took no action. Upon the arrival of the train at the next station, the soldiers and the culprit left the train. Howe also got off the train and applied to the