

**REPORTS OF INTERNATIONAL
ARBITRAL AWARDS**

**RECUEIL DES SENTENCES
ARBITRALES**

Frank L. Clark (U.S.A.) v. United Mexican States

13 May 1929

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tion of the delinquency itself that a culpable negligence has been shown to exist.

Under the conditions above stated, it may be said that there was no complete prosecution and punishment of Almaguer's assailants, but taking into account that the proceedings in their initial stage up until the date of Pedro Rojas' death do not disclose any deficiency; and that at least two of those appearing as principals responsible for the crimes were seriously prosecuted, as shown by the fact of their death as a result of an attempted escape, and also taking into account that the Commission has expressed in the case of *Laura M. B. Janes*, Docket No. 168,¹ its opinion to the effect that in cases of denial of justice it would take into account the different shades thereof, ["more serious ones and lighter ones (no prosecution at all; prosecution and release; prosecution and light punishment; prosecution, punishment, and pardon)"] it deems that the claimant may properly be awarded in this instance the sum of \$7,000.00, inasmuch as there was a certain serious prosecution of some persons, while as regards others there was a negligent prosecution and no punishment.

Decision.

The United Mexican States shall pay to the United States of America on behalf of Elvira Almaguer, the amount of \$7,000.00 (seven thousand dollars), United States currency, without interest.

FRANK L. CLARK (U.S.A.) *v.* UNITED MEXICAN STATES

(*May 13, 1929. Pages 300-301.*)

FAILURE TO PROTECT.—EXISTENCE OF LAWLESSNESS.—DENIAL OF JUSTICE.
FAILURE TO APPREHEND OR PUNISH.—RELEASE OF SUSPECTED CRIMINALS.
—MEASURE OF DAMAGES. Claim arising under same circumstances as those set forth in *Elvira Almaguer* claim *supra* allowed.

Cross-reference: Am. J. Int. Law, Vol. 24, 1930, p. 631.

(*Text of decision omitted.*)

GENIE LANTMAN ELTON (U.S.A.) *v.* UNITED MEXICAN STATES

(*May 13, 1929. Pages 301-308.*)

JURISDICTION. Jurisdiction is the power of a tribunal to determine a case in accordance with the law creating the tribunal.

CONFLICTING JURISDICTION OF SPECIAL CLAIMS COMMISSION.—RESPONSIBILITY FOR ACTS OF MILITARY FORCES. Claimant's husband was tried by an extraordinary court-martial, was sentenced to death for crime of aiding

¹ See page 82.