

**REPORTS OF INTERNATIONAL
ARBITRAL AWARDS**

**RECUEIL DES SENTENCES
ARBITRALES**

Fabian Rios (United Mexican States) v. United States of America

7 October 1926

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1. The Commission, in its opinion rendered in this case on March 31, 1926, stated that the Government of Mexico was obliged to pay to the claimant the division of the through freight charges from Puerto México to New Orleans. The Commission added that, upon the Government of the United States filing on or before May 1, 1926, evidence satisfactory to the Commission of the amount due claimant under this decision, an award would be entered for such amount.

2. The American Agent, on April 30, 1926, filed testimony, satisfactory to the Commission, stating the division of the through freight charges from Puerto México to New Orleans to have been \$594.14 (five hundred and ninety-four dollars fourteen cents, United States currency).

3. Therefore, award is hereby given that, on account of the claim herein presented, the Government of the United Mexican States is obligated to pay \$594.14 to the Government of the United States of America.

DAVID GONZALEZ (UNITED MEXICAN STATES) *v.* UNITED STATES OF AMERICA.

(October 7, 1926. Page 69.)

UNLAWFUL COLLECTION OF CUSTOMS DUTIES BY OCCUPYING MILITARY FORCES. Claim for double payment of export duties to Mexican authorities and occupying American military authorities *dismissed* for lack of jurisdiction.

1. The Commission, by its decision in this case rendered March 2, 1926, gave the Mexican Agent leave to file an amended Memorial within thirty (30) days from that date, "setting out facts, if any exist, constituting a wrong by the American authorities in the administration of the customs by them", and bringing the case within the principles and rules announced in the interlocutory decision in the El Emporio del Café case on the same day. The Commission stated that, in the absence of such allegations, the case would be dismissed.

2. As the amendment to the Memorial, filed March 27, 1926, does not contain any such allegation with respect to wrongful action on the part of the American authorities in the administration of the customs by them, but raises a controversy which the Commission in its interlocutory decision in the El Emporio del Café case explicitly declared to be outside its jurisdiction, the case is hereby dismissed.

FABIAN RIOS (UNITED MEXICAN STATES) *v.* UNITED STATES OF AMERICA.

(October 7, 1926. Page 70.)

PROCEDURE, MOTION TO DISMISS. When decision on motion to dismiss was postponed in order to permit of the further investigation of facts

and introduction of further evidence but, after expiration of time allowed for this purpose, no further evidence was produced, claim *dismissed*.

(Text of decision omitted.)

WELLS FARGO BANK AND UNION TRUST COMPANY (U.S.A.)
v. UNITED MEXICAN STATES.

(October 7, 1926. Page 71.)

PROCEDURE, MOTION FOR LEAVE TO FILE MEMORIAL.—AMENDMENT OF MEMORIAL. Motion for leave to file a memorial under a different name from that in the memorandum *denied* without prejudice to procedure of filing memorial on basis of memorandum followed by filing of motion to amend such memorial.

(Text of decision omitted.)

L. F. H. NEER AND PAULINE NEER (U.S.A.) *v.* UNITED MEXICAN STATES.

(October 15, 1926, concurring opinion by American Commissioner, undated. Pages 71-80.)

DENIAL OF JUSTICE.—FAILURE TO APPREHEND OR PUNISH.—INTERNATIONAL STANDARD. In absence of evidence establishing that action of authorities in failing to apprehend or punish those guilty of murder of American citizen amounted to an outrage or such a failure to reach international standard that would be conceded by every reasonable man, claim *disallowed*.

Cross-references: Annual Digest, 1925-1926, p. 213; British Yearbook, Vol. 8, 1927, p. 183.

Comments: Edwin M. Borchard, "Important Decisions of the Mixed Claims Commission, United States and Mexico," Am. J. Int. Law, Vol. 21, 1927, p. 516 at 521; Joseph Conrad Fehr, "International Law as Applied by U.S.-Mexico Claims Commission," A.B.A. Jour., Vol. 14, 1928, p. 312.

1. This claim is presented by the United States against the United Mexican States in behalf of L. Fay H. Neer, widow, and Pauline E. Neer, daughter, of Paul Neer, who, at the time of his death, was employed as superintendent of a mine in the vicinity of Guanaceví, State of Durango, Mexico. On November 16, 1924, about eight o'clock in the evening, when he and his wife were proceeding on horseback from the village of Guanaceví to their home in the neighborhood, they were stopped by a