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Institution:	Inter-American Commission on Human Rights
File Number(s):	Case No. 1752
Session:	Thirty-First Session (15 - 25 October 1973)
Title/Style of Cause:	Juan Isidro Valdez and Alianza Federal de Mercedes Members v United States
Doc. Type:	Resolution
Decided by:	President: Dr. Justino Jimenez de Aréchaga (Uruguay) Vice-President: Dr. Carlos A. Dunshee de Abranches (Brazil) Members: Professor Manuel Bianchi (Chile); Dr. Gabino Fraga (Mexico); Dr. Robert Woodward (United States); Dr. Genaro R. Carrio (Argentina); Dr. Andrés Aguilar (Venezuela) For health reasons, Dr. Gabino Fraga was unable to attend the Thirty-First Session.
Dated:	24 October 1973
Citation:	Isidro Valdez v. U.S., Case 1752, Inter-Am. C.H.R., OEA/Ser.L/V/II.34, doc. 31 rev. 1 (1974)
Represented by:	APPLICANT: Thomas Romero
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[1] Case 1752, September 7, 1972, denouncing the violation of the following rights set forth in the American Declaration: articles VI, IX, XXII, and XXV (right to a family and to the protection thereof, right to inviolability of the home, right of association, and right to protection from arbitrary arrest).

[2] This case was examined at the Twenty-ninth Session (October 1972) during which Dr. Gabino Fraga, the rapporteur then appointed, recommended that the communication be declared admissible, in accordance with Article 39.c of the Regulations of the Commission, in that it was incompatible with the provisions of the Statute of the Commission.

[3] In line with that recommendation, the Commission, at its Thirtieth Session (April 1973), approved a resolution whose operative part provided that "in view of the fact that there has been a judicial decision that has determined the evidence presented by the complainants and taking into account the fact that the denunciation was not made against that decision, alleging its illegality, the Commission cannot and should not enter into an examination of the acts denounced and therefore, in accordance with Article 39 c of the Regulations of the Commission, the complaint of the members of the Alianza Federal de Mercedes is rejected." [FN1]

[FN1] OEA/Ser.L/V/II.30, doc.19 rev. 1, April 25, 1973.

[4] The claimant was advised of that resolution in a communication dated May 15, 1973.

[5] In communications dated July 26 and September 18, 1973, the claimant presented his objections to the resolution of the Commission and requested reconsideration of it.

[6] At its Thirty-first Session (October 1973), the Commission considered the objections raised by the claimant and, in the absence of Dr. Gabino Fraga, rapporteur for the case, it appointed Dr. Carlos A. Dunshee de Abranches as new rapporteur, to study the matter.

The rapporteur presented a draft resolution (doc. 39-31) recommending that the examination of Case 1752 be reopened.

On the basis of that draft, the Commission unanimously approved the following resolution (OEA/Ser.L/V/II.31, doc.39 rev.1, October 24, 1973) at that session:

WHEREAS:

[i] On September 7, 1972, Juan Isidro Valdez and others, citizens of the United States of America residing in the State of New Mexico, presented, through Thomas Romero, a lawyer of the Centro Legal de la Raza, a denunciation against law enforcement officials of that state and members of the National Guard, alleging violations of their human rights, specifically those set forth in article VI, IX, XXII, and XXV of the American Declaration of the Rights and Duties of Man;

The acts denounced are presented in a clear and orderly form and can be summarized as follows:

- a. The discriminatory practices against Mexican-Americans and Spanish-speaking people in general, that were a historic fact in the United States, still exist in the administration of justice in that country (p.5).
- b. In 1967 the petitioners were all members of the Alianza Federal de Mercedes, an organization composed of Spanish-speaking United States citizens concerned with asserting a variety of political and grant claims (p.9, No. 1).
- c. On June 2, 1967, several days after a meeting of the Alianza, Juan Isidro Valdez was arbitrarily and illegally arrested and detained by law enforcement officials of the State of New Mexico and held until the 4th of that month, without any proceedings having been instituted against him (p.8, No. III).
- d. On June 5, 1967, the other petitioners were gathered at the Leyba Ranch, located in Canjilon, New Mexico, when the same officials unjustly entered that private property and detained the petitioners in a barbed wire enclosure for more than 24 hours without adequate food or sanitary facilities. Soldiers of the National Guard were used to prevent the petitioners from leaving the place of detention (p.8, No.V);

The petitioners allege that they have exhausted all domestic remedies available to them, having brought this matter before the United States District Court for the District of New Mexico, before the United States Court of Appeals for the Tenth District, and finally certiorari having been denied by the Supreme Court in March 1972;

The petitioners formally request the IACHR:

- a. To investigate and prepare a report on the incidents denounced and to recommend the measures that it deems appropriate, in accordance with Article 9 (bis) of the Statute and Article 37 of the Regulations;
- b. To prepare a study on the current state of affairs with regard to the respect for the human rights of all Spanish-speaking people of the Southwestern United States of America (p.7, relief sought);

[ii] The file on case 1752 contains the "Petition for a Writ of Certiorari to the United States Court of

Appeals for the Tenth Circuit" submitted to the United States Supreme Court in October 1971 by attorneys of the American Civil Liberties Union Foundation representing Juan Isidro Valdez and others, who are also petitioners before this Commission, and in which Joe Black, Chief of the New Mexico State Police, other local authorities and two members of the National Guard are named as Respondents;

That document contains the integral text of the petition presented by the petitioners to the Supreme Court as well as the text of the decision of the United States Court of Appeals for the Tenth Circuit which affirmed the judgment of the lower court. In those texts the following information is found:

- a. The petitioners and other members of the Alianza Federal de Mercedes brought this judicial action pursuant to 42 United States Code Sections 1983 and 1985 which govern civil rights cases and in which action the petitioners sought damages in the amount of \$3,000 for each petitioner from the defendants for violation of rights guaranteed by the Constitution of the United States, especially the rights of free speech and assembly and the right to be free from unreasonable searches and seizures.
- b. The trial by jury resulted in a decision against all of the petitioners except Sevedeo Martinez, and against four state police officers in the amount of \$3,000.
- c. The appeal of the petitioners was decided in May 1971 by the United States Court of Appeals for the Tenth Circuit, which upheld the findings of the jury. The decision of the Court of Appeals established 16 points regarding the facts, of which points 6, 9, 14, 15, and 16 confirm the acts denounced by the petitioners in their claim to the Commission. However, the conclusion of the Court was as follows.

"In sum, our study of the voluminous record convinces us that the plaintiffs have now had their day in court and that the varied issues were properly submitted to the jury under instructions that are without the defects now suggested by the several plaintiffs";

The file does not contain the text of the decision of the Supreme Court, because according to the lawyer of the petitioners, that court denied certiorari in March 1972. This decision was not presented in writing nor are its bases of fact or law given;

[iii] Dr. Gabino Fraga, as rapporteur, presented a report in which he expressed the belief that:

"As this final decision examines and considers that the violations of human rights alleged by the plaintiffs did not occur, the Commission cannot and should not reexamine the violations of such rights; since there exists a later decision of the judicial authority, the complaint should be directed and based against this judicial act alleging its illegality";

[iv] The Commission, its meeting of October 26, 1972, decided to file the case as "incompatible with the provisions of the Statute," in accordance with Article 39 c of the Regulations (doc. 40-29 rev.1);

[v] On October 27 the Commission received the following addendum from the claimants:

"The actions complained of by the parties to this petition were not acts carried out by 'private' individuals. Said acts were carried out by officials of recognized governmental entities and as such constitute state action. It is recognized that the United States Government has the obligation and ability to control such state action, especially when such action results in the violation of basic human rights by said individuals acting in their official capacity. To hold to the contrary would be to give reign to all governments, acting under and through lesser officials, to violate the human rights of individuals without ever being called to an accounting by such bodies as the Inter-American Commission on Human Rights. "Because the Government of the United States failed to prevent, halt, or rectify the acts and the consequences complained of herein, the parties to this petition have seen fit to register formal complaint with the Commission, and pray for the relief which the Commission is competent to grant";

[vi] On April 25, 1973, the Commission adopted a final resolution the conclusion of which reads:

"Decides in view of the fact that there has been a judicial decision that has examined the evidence presented by the complainants and taking into account the fact that the denunciation was not made against that decision, alleging its illegality, the Commission cannot and should not enter into an examination of the acts denounced and, therefore, in accordance with Article 39 c of the Regulations of the Commission, the complaint of the members of the Alianza Federal de Mercedes is rejected";

[vii] The brain of the decision of the Court of Appeals for the Tenth Circuit is fully set out in the resolution but the two requests contained in the original communication of the claimants and the addendum are not examined,

[viii] The text of the resolution of the Commission was forwarded to the lawyer of the Alianza on May 15, 1973, and on the following September 13 the same lawyer requested that the Commission reconsider its decision. The following arguments were presented:

"Implicit in the denunciations as articulated in our petition is the denunciation of the entire judicial procedure which petitioners herein were required to exhaust. Had petitioners been satisfied that the domestic judicial determination was fair and just, the need for filing the petition would not have existed. It is petitioner's position that by its very nature, the petition inherently denounces the Judicial decision rendered in the case as well as the failure of the United States Supreme Court to act in the matter.

"Petitioners failed to realize that the Commission would interpret their implicit denunciation of the judicial procedure as no denunciation whatsoever. This is incorrect and for the record petitioners wish to clarify the matter as follows: The acts complained of by petitioners in their original complaint impliedly include the denunciation of the domestic judicial decisions rendered. Petitioners feel the decision is contrary to fact when viewed in light of the American Declaration and the human rights protected thereunder";

[ix] The acts occurred in 1967 but the domestic legal remedies were not exhausted until March 1972 and the petitioners presented their communication to the Commission in September 1972, which is within the six-month period established by Article 55 of the Regulations. Likewise, between the communication of the final decision of the Commission, dated May 15, 1973, and the request for revision or reconsideration, received on September 24, 1973, four month had elapsed, which can be considered a reasonable period, considering the circumstances of the case;

[x] In principle it does not appear that the requests of the claimants in their original communication and the addendum are incompatible with any article of the Statute;

[xi] The mere fact that the internal legal remedies might have been exhausted and that there is a definitive judicial resolution that has examined the evidence presented by the petitioners does not bar the Commission from considering whether that evidence shows a violation of the human rights defined in the American Declaration of the Rights and Duties of Man. What the Court of Appeals for the Tenth Circuit decided was that, in the case of the petitioners, the right specified in the Constitution of the United States were not violated. Only the revision of this point of its conclusion would be incompatible with the competence of this Commission. It is enough to remember, as an example, that until 1954 the United States Supreme Court maintained the "separate but equal" doctrine in matters of racial discrimination, which would not have barred the CIDH, if it had been in existence at that time, from declaring that such a decision would be contrary to the American Declaration;

[xii] Thus, the complainant's request for revision, in addition to being timely, contains, at first glance,

relevant material whose merit the Commission has not examined. Consequently, what should be done is to request the pertinent information from the Government of the United States, mentioning Articles 42 2) of the Regulations which provides that the request "does not constitute in and of itself a judgment in advance, of the admissibility of the denunciation,"

THE INTER-AMERICAN COMMISSION ON HUMAN RIGHTS
RESOLVES:

1. To admit the possibility of revision of the resolution of April 25, 1973 (doc.19-30)
2. To request information from the Government of the United States of America, in accordance with Article 9 (bis) of the Statute and Article 42 of the Regulations of the CIDH.

[7] Pursuant to operative paragraph 2 of the foregoing resolution, the Commission sent the Government of the United States a note dated December 19, 1973, requesting information on the acts denounced, in accordance with articles 42 and 44 of its Regulations. Together with that note, a copy of the resolution of October 24, 1973 was transmitted.

[8] In a communication dated January 10, 1974, the claimant was informed of the text of the resolution approved and of the status of the case.