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Institution:	Inter-American Commission on Human Rights
File Number(s):	Case No. 1732
Session:	Thirty-First Session (15 - 25 October 1973)
Title/Style of Cause:	José Villa, Ovidio Avila, José Agustín Torres and Félix Pablo Gary v. Cuba
Doc. Type:	Decision
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:	15 - 25 October 1973
Citation:	Villa v. Cuba, Case 1732, Inter-Am. C.H.R., OEA/Ser.L/V/II.32, doc. 3 rev. 2 (1973)
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[1] Case 1732, December 30, 1971, claiming that on December 5 and 15 of that year ships of the Cuban navy attacked the ships "Lyle Express" and "Johnny Express," owned by the company Bahamas Lines, S.A., while in international waters, and that the 28 crew members of those ships were seized and taken to Cuba. Twenty-four of them were freed; the whereabouts of Captain José Villa and crew members Messrs. Ovidio Avila, José Agustín Torres, and Félix Pablo Gary, who remained in Cuban territory, was unknown.

The aforementioned denunciation was supported by other persons and organizations requesting that the Commission take action to gain the freedom of the crew members named and guarantees of humane treatment during their stay in Cuba.

[2] The Commission considered this case during its Twenty-seventh Session (February-March 1972) and appointed Dr. Mario Alzamora Valdez as rapporteur. The rapporteur recommended that the case be examined in terms of the question of the CIDH's competence to admit communications or claims regarding events allegedly in violation of human rights in Cuba, whose government is excluded from participation in the Organization of American States.

At that session the Commission decided to postpone the examination of communication 1732 until its next regular session scheduled for October 1972, at which time it would again consider the question of its competence to admit and examine denunciations regarding the status of human rights in Cuba.

[3] Following its Twenty-seventh Session, the Commission received several communications on the same case, urgently requesting it to act in defense of the human rights of the crew members still detained in Cuban territory.

[4] The Commission accordingly included the examination of case 1732 on its agenda for the Twenty-eighth (Special) Session, held May 1-5, 1972.

On the basis of the recommendations of the rapporteur, and viewing the case in light of Resolution VI of the Eighth Meeting of Consultation of Ministers of Foreign Affairs (1962), as broadened in 1964 by the Ninth Meeting of Consultation, the Commission decided the following:

(a) to reaffirm the principle that the resolutions of the organ of consultation have no bearing on the Commission's competence to continue admitting and examining communications or claims on the status of human rights in Cuba, for "in no case may the Commission relinquish its irrenounceable obligation to promote respect for human rights in all and each one of the member states of the Organization";

(b) to request the Government of Cuba to provide pertinent information on the events denounced, pursuant to articles 42 and 44 of the Regulations.

[5] In compliance with point (b) of that decision, a note dated May 9, 1972, was sent to the Government of Cuba.

[6] At its Twenty-ninth Session (October 1972), the Commission verified the fact that, as with the other requests transmitted to the Cuban Government, that government had not replied with regard to case 1732.

Accordingly, at that session, by virtue of paragraph 1 of Article 51 of its Regulations, the Commission decided to consider as confirmed the events denounced in the communication of December 30, 1971, and subsequent communications, regarding the seizure in international waters of the ships "Lyle Express" and "Johnny Express," owned by the company Bahamas Lines, S.A.; the arbitrary detention of the crew in Cuban territory; and the continued detention of the crew members Messrs. José Villa (Captain), Ovidio Avila, José Agustín Torres, and Félix Pablo Gary.

[7] Following that decision, the Commission learned that Captain José Villa, of the ship "Johnny Express" (who had recently been turned over to the Government of Panama by Cuban authorities), would be tried on the charge of allowing his ship to be used for subversive activities against the Government of Cuba.

[8] In view of these facts, the Commission decided, at its Thirtieth Session (April 1973), to send a note to the Government of Panama requesting information on the legal status of Captain Villa, leaving the case pending until it received that information. A note dated June 19, 1973, to that effect was sent to the Government of Panama. On that date the claimants were also informed of the decision.

[9] By a note dated June 25, 1973 (DOI-2416), the Government of Panama replied by stating that Captain Villa was "subject to legal proceedings by competent Panamanian judicial authority, inasmuch as he is accused of utilizing a ship of Panamanian registry to carry out subversive operations in Cuban territorial waters." The official statement added that "because he possesses United States as well as Cuban citizenship, Captain Villa has received visits by the Consul of the United States and by his wife. He also enjoys the guarantees that Panamanian laws offer for his defense."

[10] At its Thirty-first Session (October 1973), the Commission continued its examination of Case 1732. Taking into account the information provided by the Government of Panama, it decided to file the case without further action, this decision being communicated to the claimants.