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Institution:	Inter-American Commission on Human Rights
File Number(s):	Case No. 1783
Session:	Forty-Third Session (26 January – 11 February 1978)
Title/Style of Cause:	Hugo Leonardo de los Santos Mendoza v. Uruguay
Doc. Type:	Resolution
Decided by:	Chairman: Dr. Andrés Aguilar, Chairman (Venezuela) Vice Chairman: Dr. Carlos A. Dunshee de Abranches (Brazil) Members: Professor Tom J. Farer (United States); Dr. Gabino Fraga (Mexico); Dr. Carlos García Bauer (Guatemala); and Dr. Fernando Volio Jiménez (Costa Rica). Dr. José Joaquín Gori (Colombia), was not present at that session due to the fact that his country had appointed him Ambassador to the OAS.
Dated:	30 January 1978
Citation:	Santos Mendoza v. Uru., Case 1783, Inter-Am. C.H.R., OEA/Ser.L/V/II.43, doc. 21, corr. 1 (1977)
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## WHEREAS:

[1] In a communication dated October 2, 1975, the following was denounced:

As is our custom, we do not deal in unconfirmed accounts; rather, we are enclosing the denunciation of a death by torture which occurred in a facility of the Armed Forces of our country, according to the documentation that could be compiled on the case. It involves a young student, Hugo Leonardo de los Santos Mendoza.

Attached please find an account given by the Dean of the School of Medicine of Montevideo, Dr. Pablo V. Calevaro, and testimony given by the Forensic Physician of the Joint Forces, Dr. Jose Alejandro Mautone, which lives a summary of the protocol of autopsy.

If we shuddered when we learned the news, our feelings of revulsion, powerlessness and indignation reached their peak when we learned through a member of the family of the deceased who is a physician and who was present when the body was identified, how this young student of agronomy was murdered. First let me say that when the body was turned over, it was said that the young man had died of pneumonia; on the other hand, the death certificate issued by the physician said that he had died of 'acute pulmonary edema.' The members of the family were able to detect signs of punishment on the body of the victim and filed a complaint before the Judge of the Department of Rocha, who handled the situation with complete professional dignity. Steps were taken to have the body identified by university professionals who were carefully selected by the judge from among individuals who knew the student because they lived in Rocha and who are known not to be militantly and systematically opposed to the Government. Among them were a number of court clerks, lawyers, and physicians. The autopsy report was signed by five physicians. The report confirmed that pulmonary edema was not the cause of death, so the death certificate issued is false. Acute pulmonary edema is a condition that sets in rapidly and is brought about by heart failure; it leaves unmistakable marks on the lungs and has its counterpart in changes to the heart

muscle itself. That cause of death can be disregarded entirely, which is not surprising because a young man of 21 years of age and in good health, who attended the School of Agronomy (near the site where he was detained), could not have developed such a condition; an individual who dies of acute pulmonary edema is most assuredly not physically capable of carrying on a normal life such as this young man did. It was also possible to verify something else that is equally serious as this falsehood: an omission was discovered. In the autopsy that was conducted possibly in the Morgue of the Military Hospital, no autopsy was done on the skull, despite the subcutaneous blood clotting, the hematomas, and the evidence of external lesions on the face and skull. And, in fact, the true cause of death was an intra-cranial hematoma, located in the posterior fossa where the cerebellum is housed. This was a hematoma resulting from a trauma, most assuredly caused by blows of which there are abundant signs over the entire body. Subcutaneous blood clotting was found in the frontal region, the right and left temporal region, with a hematoma lodged in the temporal muscle on the left side, abrasions on both cheekbones and scrapes on the left mastoid region and chin. Also found were large areas of abrasions and subcutaneous blood clotting in the upper members and particularly on both elbows. The same characteristics were found on the knees, particularly on the left knee and the right thigh. There was subcutaneous blood clotting on both buttocks and multiple abrasions which indicated that the student was most likely dragged over a rough surface, such as gravel. There were also wounds on the thoracic-abdominal area in the form of subcutaneous blood clotting and multiple and extensive hematomas.

Thus, this is not merely a death and it is not simply a question of a young life. It is more than just the case of a student who is worthy of the praise given him by Council of the School of Agronomy, this is not simply the case of an individual who has not been found, beyond any reasonable doubt, to have committed a crime and who was not questioned by any judge. This is the case of an individual apprehended in a state of health and returned dead after having undergone tremendous punishment and torture for who knows how long, with marks on his body that bespeak the cruelty, the pathology, the malignancy, the barbarity and the savagery that, because of the acts committed, in some way typify his captors.

[2] The Inter-American Commission on Human Rights, in a note dated December 12, 1973, transmitted the pertinent parts of the denunciation to the Government of Uruguay, and requested that it provide the appropriate information;

[3] Having received no reply, the Commission repeated its request for information to that Government and quoted the text of Article 51 of its Regulations, in a note dated 3 June 1974;

[4] The Government of Uruguay, in a note dated June 28, 1974, informed the Commission as follows:

As it has been impossible, because of a number of circumstances beyond my Government's control, to provide the information on this case within the period provided for under Article 51 of the Regulations of that Commission, I would like to request of the Chairman, in accordance with instructions received, that that deadline be extended for ninety days.

[5] The Commission, in a note dated July 8, 1974, granted the extension requested by the Government;

[6] The Government of Uruguay, in a note dated September 9, 1974, replied to the Commission's request for information as follows:

Hugo Leonardo de los Santos Mendoza was detained on a public street on September 1, 1973, by members of the Joint Forces, and was taken to a military unit in order to bring him before the corresponding judge, because of his participation in subversive activities as described in paragraph 1

above.

On the morning of September 3, during a routine inspection, it was found that he had suffered a pulmonary condition, and was attended by the unit's health service, in spite of which he died.

The Military Examining Judge of the Fourth Term, Naval Captain Oscar Pio Lorenz, intervened and ordered that a forensic examination be carried out which was done as ordered.

The results of the autopsy, which was directed by Dr. Mautone, established "acute pulmonary edema" as the cause of death.

When the corpse of Hugo Leonardo de los Santos Mendoza was turned over to the family, who reside in the Department of Rocha, the Departmental Judge for that district, in response to complaints filed by members of the family of the deceased to the effect that the corpse showed visible evidence of mistreatment, assumed competence and ordered that a new autopsy be conducted by a group of physicians appointed for that purpose, whose conclusions differed from the results of the previous medical-forensic examination.

In the face of the measures ordered by the Judge of the Department of Rocha, the Military Examining Judge of the Fourth Turn who had assumed jurisdiction in first instance, reclaimed his competence before the Supreme Court of Justice.

A dispute over jurisdiction was brought before the Supreme Court and was settled on August 14, 1974, by decree 2074 in which jurisdiction was given to the Examining Magistrate of the First Term of Montevideo.

Therefore, it is a responsibility of the judicial authority ultimately appointed, in accordance with the pertinent provisions of the law, to take such measures as he deems appropriate with regard to the causes of death of Hugo Leonardo de los Santos.

[7] The Commission, in a note of August 7, 1975, requested the Government of Uruguay to kindly provide additional information on the results of the judicial measures carried out with regard to this matter and, in particular, a copy of any ruling that may have been handed down on the matter;

[8] The Government again requested an extension, by note dated February 27, 1976;

[9] The Commission, in a note dated March 15, 1976, granted the Government an extension to May 20, 1976, for transmittal of the information requested;

[10] The deadline passed without the Government of Uruguay having provided that information;

[11] The Inter-American Commission on Human Rights, at its 39th session (October-November 1976), decided to apply Article 51 of its Regulations in this case;

[12] Later, in a note dated September 12, 1977, the Government of Uruguay reported to the Commission as follows:

The question of competence or jurisdiction was resolved by the Court of Justice on August 14, 1974, through decree No. 2074. Thereafter, on August 19, 1974, the Examining Magistrate of the First Term in Montevideo, through official letter No. 4467, assumed competence and initiated appropriate proceedings; at the conclusion of these and in order to obtain more complete information, he ordered that a report be prepared by the Forensic Technical Institute, an agency of the Supreme Court of Justice. Consequently, the proceedings carried out previously were brought together and delivered to Dr. Alfredo Navarro, a general medicine expert from the School of Medicine, for his consideration. He proceeded to consider the judicial proceedings initiated in September 1973 and to examine the medical report produced at that time. In his report, he presents an exhaustive examination of the two autopsies and determines that that which was carried out by order of the Military Courts contains defects, while the autopsy prepared in Rocha states the following: "the organs that served to justify the conclusions of the autopsy are to be remitted to

the Forensic Technical Institute, mentioned above." In the same report, it is established that the organs sent by the Judge of the Department of Rocha and received by the Technical Forensic Institute are the following: "the heart and the spleen, both intact, and fragments of the lungs; not received, however, was the 'brain,' the organ which according to the autopsy carried out by order of the Judge of Rocha would permit confirmation of the conclusion rendered in the autopsy ordered by him, it being the organ that would show the lesions which caused the death. Also not received was the base of the lung, which would permit confirmation of the conclusion of the autopsy originally, ordered by the Military Judge. In conclusion, the aforementioned medical expert from the School of Medicine, Dr. Alfredo Navarro, in an official note delivered to the Examining Magistrate of the First Term in Montevideo on the date mentioned above (August 9, 1976), finds the following: 'Consequently, and having confirmed the existence of defects in the two autopsies available, it is impossible to issue any definitive judgment concerning the death of Hugo Leonardo de los Santos.' On August 18, 1976, the Acting Judge ordered the proceedings made available for examination by the Criminal Prosecutor of the First Term, who on August 31 of the same year, in opinion 2170/76, recommended that the closing of the Judicial proceedings be ordered. On September 2 of the same year the documents in the case were returned to the office of the Examining Magistrate of the First Term who, by Decree 4005, ordered the closing of the proceedings and the permanent filing of the case, and

[13] The information received from the Government itself leads to the conclusion that there is no other process or internal remedy pending decision;

#### THE INTER-AMERICAN COMMISSION ON HUMAN RIGHTS, RESOLVES:

1. To declare that all information leads to the assumption that Hugo Leonardo de los Santos Mendoza, who was detained by authorities and was in a military unit when he died two days after his arrest, died as a result of an intracranial hematoma caused by wounds that he suffered during his detention.
2. To point out to the Government of Uruguay that this constitutes a very serious violation of the right to life, liberty and personal security (Article I of the American Declaration of the Rights and Duties of Man); of the right to a fair trial (Article XVIII); and of the right to due process of law (Article XXVI).
3. To recommend to the Government:
  - a) that it order a thorough and impartial investigation to determine who is responsible for the events denounced and, in accordance with Uruguayan law, that it punish those responsible for those acts;
  - b) that it report to the Commission on the measures taken to implement the recommendations contained in the preceding section within a period of no more than thirty days.
4. To forward this resolution to the Government of Uruguay and to the claimants.
5. To include this resolution in its Annual Report to the General Assembly of the Organization (Article 9 (bis), c, iii of the Statute), if within thirty days the Government has not advised the Commission of the measures it has adopted to carry out the investigation recommended under operative paragraph 3.

Adopted at meeting No. 559th, January 30, 1978 (43rd session) and forwarded to the Government of Uruguay on February 21, 1978.