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Institution:	Inter-American Commission on Human Rights
File Number(s):	Report No.11/82; Case No. 7898
Session:	Fifty-Fifth Session (1 – 9 March 1982)
Title/Style of Cause:	Eduardo Eloy Alvarez Hernández v. Cuba
Doc. Type:	Resolution
Decided by:	Chairman: Mr. Tom J. Farer; First Vice Chairman: Marco Gerardo Monroy Cabra; Second Vice Chairman: Francisco Bertrand Galindo; Members: Andres Aguilar; Carlos A. Dunshee de Abranches; Luis Demetrio Tinoco Castro; César Sepúlveda.
Dated:	08 March 1982
Citation:	Alvarez Hernández v. Cuba, Case 7898, Inter-Am. C.H.R., Report No. 11/82, OEA/Ser.L/V/II.57, doc. 6 rev. 1 (1981-1982)
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## BACKGROUND:

1. The following was denounced in a communication of August 21, 1981:

“Eduardo Eloy Alvarez Hernández had waited patiently since 1961, the year that I left Cuba, leaving all his papers ready so that he could join me as soon as the Cuban Government should allow him to leave. First, he reached the age for military service; later, ninety days after reporting, they halted his departure in the October 1962 crisis. They denied his departure at the time of Camarioca. When the period for family reunion began, I prepared everything again. He wrote to immigration, and they replied that he was not included in the family reunion. Then, through the community, his mother went to see him. Upon seeing his mother and knowing that she would be leaving again, his nerves drove him to commit the madness that he committed.

I agree that Eduardo Eloy Hernández should be punished for the crime that he committed of leaving illegally, for which the punishment in Cuba is six months to three years. But I do not agree that he should be sentenced to eight years' imprisonment, such as they wish to impose upon him, for a crime that he did not commit, and that they have called piracy" or theft of a ship, which at no time occurred. Proof of that is that the lawyers are alarmed at this brutal sentence and have appealed for a review of the case. Note: Eduardo was imprisoned on March 7, 1980; he was held prisoner on a farm without trial until June 5 of this year. The sentence was made known on August 5, 1981.

When they opened Mariel, I went in a shrimp boat called J. C. spoke with the Cuban authorities and they promised me that they would leave him on the requested list with his wife and child and that I should go home and not worry, that my boat would return full of prisoners (as was the case), and that they were being sent to me in another boat. His wife and child came through Mariel with the promise that he was being sent in another boat with prisoners, but this promise was not kept.

As of this writing, they have again moved him to another farm where he was previously, called Aisladores de Guivican (Havana) a top security center.”

2. In a note dated August 31, 1981, the Commission transmitted the pertinent parts of the denunciation to the Cuban Government, so that it might provide it with the information that it deemed appropriate.

3. To date, the Cuban Government has not replied.

WHEREAS:

1. To date, the Cuban Government has not replied to the request of August 21, 1981;

2. Article 39 of the Regulations of the Commission provides as follows:

Article 39

The facts reported in the petition whose pertinent parts have been transmitted to the government of the state in reference shall be presumed to be true if, during the maximum period set by the Commission under the provisions of Article 31, paragraph 5, the government has not provided the pertinent information, as long as other evidence does not lead to a different conclusion.

THE INTER-AMERICAN COMMISSION ON HUMAN RIGHTS  
RESOLVES:

1. Based on Article 39 of its Regulations, to presume to be true the events denounced in the communications of August 21, 1981, concerned with the arbitrary arrest of Eduardo Eloy Alvarez Hernández and the refusal to allow him to leave the country.

2. To declare that the Government of Cuba violated the right to protection against arbitrary arrest (Article XXV), the right to a fair trial (Article XVIII), the right to asylum (Article XXVII), and the right to protection for the family (Article VI) of the American Declaration of the Rights and Duties of Man.

3. To communicate this decision to the Government of Cuba and to the claimants.

4. To include this resolution in the Commission's Annual Report to the General Assembly of the Organization of American States, pursuant to Article 18 (f) of the Statute and Article 59 (g) of the Regulation of the Commission.