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Title/Style of Cause:	Roger Reyes Fernández 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:	Reyes Fernández v. Cuba, Case 6093, Inter-Am. C.H.R., Report No. 4/82, 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 November 1979:

Roger Reyes Fernández was sentenced to 20 years in prison on April 26, 1966 and accused of conspiring against the powers of the State. His case number is 160-66. After being subjected to an interrogation accompanied by cruel physical and mental torture, he was sent after one month to La Cabaña Prison in the Province of Havana.

He has been compelled to take part in several hunger strikes along with his companions, the most recent this past August in Boniato Prison, Oriente, where he is now incarcerated and to which he was transferred arbitrarily for no other reason than to keep him isolated and incommunicado.

Owing to several long hunger strikes and the daily living conditions, he suffers from gastritis and stomach ulcers. During his thirteen years in Cuban prisons, he has been in those already mentioned and also in El Principe and in Combinado del Este, in the province of Havana.

2. In a note dated March 4, 1979, the Commission transmitted the pertinent parts of the denunciation to the Cuban Government, so that it might furnish it with the information that it deemed appropriate.

3. To date, the Cuban Government has made no reply.

4. In a communication of September 19, 1981, additional information reporting the following:

Roger Reyes Fernández is still in prison and has been there since his incarceration on April 26, 1966, when he was sentenced to 20 years imprisonment, Case 160. Following the so-called release of some political prisoners for propaganda purposes, as part of a program planned by the Cuban Government under the name of dialogue - which was, of course, between adherents of the regime's Marxist ideology - those prisoners who were not among those chosen were sent to harsher prisons, where conditions for

human survival are of the worst. Roger Reyes was transferred to the Boniato Prison in Santiago de Cuba, Oriente, in August 1979.

To begin with, few visits were allowed. Later the regime put pressure on the prisoners to bend them to its will and compel them to accept the status of common prisoners, alleging that those remaining were war criminals and terrorists. This was untrue, even on the basis of the legal arguments put forward by the government in its statement of the case at the time the prisoners were put on trial.

The situation becomes increasingly worse. Reyes, along with the others, is currently in a walled-up cell where he has been since January, when family visits have been stopped. In reprisal for not wanting to accept the uniform of the common prisoner, the prisoner are allowed only their underpants as clothing. All these conditions have led them in recent months to renew their hunger strikes, demanding such natural human rights as improved food and sanitary conditions and, above all, the medical care that they all need - especially a large group of them who are in very poor health. As a result, some are paralyzed and are still without medical care. Recently, a great number of prisoners completed their sentences, and were denied release, without any advance notification to them or to their relatives. As mental torture, they were accused of being a danger to society.

5. In a note of October 8, 1981, the Commission transmitted this additional information to the Cuban Government and again requested information.

6. To date, the Cuban Government has not replied the notes mentioned.

WHEREAS:

1. To date, the Government of Cuba has not replied to the requests of March 4, 1979 and October 8, 1981;

2. Article 39 of the Regulations of the Commission establishes 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. In application of Article 39 of the Regulations, to presume to be true the acts denounced in the communications of November 1979 and September 19, 1981 on the arbitrary detention of Roger Reyes Fernández.

2. To declare that the Government of Cuba violated the right to liberty and personal security (Article I), the right to the preservation of health (Article XI), the right to a fair trial (Article XVIII), the right to due process (Article XXVI) of the American Declaration of the Rights and Duties of Man.

3. To transmit this decision to the government of Cuba and to the claimants.

4. To include this resolution in the Annual Report of the Commission to the General Assembly of the Organization of American States in accordance with Article 18, paragraph (f) of the Statute and Article 59, paragraph (g) of the Regulations of the Commission.