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Institution: Inter-American Commission on Human Rights
File Number(s): Report No. 15/86; Case No. 9341
Session: Sixty-Seventh Session (8 – 18 April 1986)
Title/Style of Cause: Julio Aguilar Pineda v. Nicaragua
Doc. Type: Resolution
Decided by: Chairman: Luis Adolfo Siles Salinas;
First Vice Chairman: Gilda Russomano;
Second Vice Chairman: Marco Tulio Bruni Celli;
Members: Dr. Marco Gerardo Monroy Cabra; Dr. Bruce McColm; Ms. Elsa Kelly; Messrs. Oliver Jackman
Dated: 16 April 1986
Citation: Aguilar Pineda v. Nicar., Case 9341, Inter-Am. C.H.R., Report No. 15/86, OEA/Ser.L/V/II.68, doc. 8 rev. 1 (1985-1986)
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HAVING SEEN:

1. The petition received by the Inter-American Commission on Human Rights on April 9, 1984, according to which:

JULIO AGUILAR PINEDA, 39 years of age, a farmer and resident in the El Golfo area, District of El Cuás, Department of Jinotega, was accused of being a counterrevolutionary by Juan and Germán Blandón. He left his house on September 13, 1983 and was arrested in Matagalpa. His family members were informed that he had been imprisoned in the Las Tejas Commando of the city of Matagalpa, where his arrest was denied. A search has also been made for him in the prisons of the Zona Franca, but no positive results have been obtained.

2. The transmission of the pertinent parts of this petition to the Government of Nicaragua, under the note of June 18, 1984, requesting it to provide such information as it deemed pertinent, as well as any information that would make it possible to ascertain whether, in the case that is the subject matter of this request, the remedies of domestic law had been exhausted.

3. The communication of January 23, 1985 which repeated the request for information of June 18, 1984.

4. The repetition of the request for information made in the note of February 27, 1986, which informed the Government of Nicaragua that, should such information not be provided within a period of thirty days pursuant to Article 42 of the Regulations, the facts reported would be considered to be true.

CONSIDERING:

1. That the Government of Nicaragua has not replied to the request for information made by the

Commission concerning this case and that, in addition, the requirements of domestic law have been exhausted.

2. That, by reason of their nature, the facts that are the subject matter of the petition, do not permit the application in this case of the friendly settlement procedure.

3. That Article 42 of the Regulations of the Commission stipulates the following:

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 34, paragraph 5, the Government has not provided the pertinent information, as long as other evidence does not lead to a different conclusion.

4. That, in addition to not replying to the repeated requests for information, the Government of Nicaragua has not so far allowed a member of the Commission and an official of the Secretariat to go to that country to clarify certain aspects relating to this case, pursuant to the provisions of Article 48.1d of the American Convention on Human Rights to which Nicaragua is a State Party.

5. That in its observations to Resolution 15/86, the Nicaraguan Government stated that Mr. Julio Aguilar Pineda has not been detained and there exist no restrictions placed on his freedom of movement, adding that:

The information supplied by the claimants does not appear to correspond with reality. It is relevant to point out to this Honorable Commission that the places where this person was allegedly detained are zones in which counterrevolutionary bands enter and leave and in which a climate of danger and movement typical of war zones exists. In such zones, in which the backwardness is not notorious, there is not even a population census. The above circumstances impede the rapid gathering of information.

6. The observations of the Government are a general response and do not address the details of the facts presented by the claimant, for which reason the Commission finds that these observations do not cast doubt upon the conclusions to which it arrived in Resolution 15/86.

7. That the General Assembly of the Organization of American States declared in Resolution 666 (XIII-0/83) that "the practice of the forced disappearance of persons in the Americas is an affront to the conscience of the hemisphere and constitutes a crime against humanity."

In view whereof:

THE INTER-AMERICAN COMMISSION ON HUMAN RIGHTS, RESOLVES:

1. To consider to be true the facts reported in the communication of April 9, 1984 concerning the arrest and subsequent disappearance of Mr. Julio Aguilar Pineda.

2. To declare that the Government of Nicaragua has violated the right to personal liberty (Article 7) and the right to life (Article 4) set forth in the American Convention on Human Rights to which Nicaragua is a State Party.

3. To recommend to the Government of Nicaragua that it order a thorough investigation of the facts reported in order to identify the persons responsible, and prosecute and punish them in accordance with the law and that it adopt the necessary measures to prevent a repetition of such serious events.

4. To confirm Resolution 15/86, to include it in its Annual Report to the General Assembly of the

Organization of American States, in accordance with Article 63, g of the Regulations of the Commission, and to communicate it to the claimant.