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Institution: Inter-American Commission on Human Rights
File Number(s): Report No. 9/86; Case No. 9284
Session: Sixty-Seventh Session (8 – 18 April 1986)
Title/Style of Cause: Santos Marcelo Martínez García and Félix Alejandro Martínez García 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: Martínez García v. Nicar., Case 9284, Inter-Am. C.H.R., Report No. 9/86, 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:

SANTOS MARCELO MARTINEZ GARCIA, aged 35 years, married, a farmer and resident in the Boca de Baná District, Department of Nueva Segovia, was arrested on January 6, 1983 in his house by the Quilalí Border Guards. A search was made for him in the Quilalí Commando, the prisons of Ocotal, Estelí and Matagalpa but no information concerning him was obtained.

FELIZ ALEJANDRO MARTINEZ GARCIA, the brother of the foregoing, aged 25 years, married, a farmer and resident of the Baná Centro Area, Wiwilí District, Department of Nueva Segovia, was arrested together with his brother Santos Marcelo on January 6, 1983 by the Quilalí Border Guards.

The family members of the above-mentioned were recently informed that they had been found dead, which version it has not been possible to confirm.

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

3. The communication of January 18, 1985, which repeated the request for information of April 9, 1984.

4. The repetition of the request for information made in the note of February 26, 1986, which informed the Government of Nicaragua that, should such information not be provided within the period of thirty days pursuant to Article 42 of the Regulations, the facts reported would be presumed to be true.

CONSIDERING:

1. That so far 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 the Government of Nicaragua, in addition to not replying to reiterated requests for information, has so far not 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 48.1 d of the American Convention on Human Rights to which Nicaragua is a State Party.

In view whereof:

THE INTER-AMERICAN COMMISSION ON HUMAN RIGHTS,
RESOLVES:

1. To consider true the facts reported in the communication of April 9, 1984 concerning the arrest and subsequent death of Messrs. Santos Marcelo Martínez García and Félix Alejandro Martínez García.
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 conduct a thorough investigation of the facts reported for the purpose of identifying the persons responsible and prosecuting and punishing them in accordance with the law and that it adopt the necessary measures to prevent the reoccurrence of such serious events.
4. To include this resolution 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 claimants.